Laws, Resolutions and Memorials

OF THE

STATE OF MONTANA

PASSED BY THE

Thirty-Seventh Legislative Assembly

In Regular Session

Held at Helena, the Seat of Government of Said State,
Commencing January 2, 1961, and
Ending March 2, 1961.

PUBLISHED BY AUTHORITY

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Certificate of Authentication

State of Montana }
Department of } ss.
Secretary of State }

I, Frank Murray, Secretary of State of the State of Montana, do hereby certify that by virtue of the authority vested in me by law I have prepared for publication and caused to be printed a copy of all laws, memorials, resolutions and appropriation measures passed by the Thirty-seventh Legislative Assembly of the State of Montana, at the Thirty-seventh Session commencing January 2, 1961, and concluding March 2, 1961; that I have caused to be compared the said printed laws, memorials, resolutions and appropriation measures with the original manuscript thereof now on file in my office, and that the following are true, full and correct copies thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this 15th day of June, 1961.

Frank Murray

Secretary of State.

OFFICERS AND MEMBERS

OF THE

Thirty-seventh Legislative Assembly of the State of Montana

1961

DONALD G. NUTTER, GOVERNOR.
Tim M. Babcock, Lieutenant Governor and President of the Senate.
Clyde L. Hawks, Speaker of the House.
Richard Nixon, President Pro Tem of the Senate.
Paul R. Rice, President Pro Tem (Ad Interim).

Members of Senate

NAME	RESIDENCE	COUNTY	POLITICS
*Anderson, Roswell H.	Wibaux	Wibaux	Republican
Balgord, O. P.	Lavina	Golden Valley	Republican
*Beley, Ward H.	Harlowton	Wheatland	Democrat
*Bovey, Charles A.	P. O. Box 1653, Great Falls	Cascade	Democrat
Brenner, J. S.	Grant	Beaverhead	Republican
*Brownfield, Ben S.	Ekalaka	Carter	Republican
Carney, Ed	Scobey	Daniels	Democrat
Cashmore, Wm. F., M. D.	10 Montana Ave., Helena	Lewis & Clark	Republican
*Cole, Kenneth	Winnett	Petroleum	Republican
Cook, Milo H.	Broadus	Powder River	Democrat
*Cotton, Robert S.	Box 27, Glasgow	Valley	Democrat
*Cumming, Hugh C.	Drummond	Granite	Democrat
DeWolfe, Percy	Babb	Glacier	Democrat
Durkee, Robert A.	No. 1 Fifth St., Havre	Hill	Democrat
*Dussault, Edward T.	Mullan Road, Missoula	Missoula	Democrat
Edwards, Lochiel	Malta	Phillips	Republican
*Goodwin, Lester C.	Townsend	Broadwater	Democrat
Graham, Carroll A.	Lodge Grass	Big Horn	Democrat
Grieve, W. H.	Terry	Custer	Republican
*Groff, W. A. "Bill"	Victor	Ravalli	Democrat
Hafferman, William F.	Libby	Lincoln	Democrat
*Harken, R. C.	587 Oak, Forsyth	Rosebud	Independent
Hauk, Mike	Terry	Prairie	Democrat
*Hibbs, Rex	15 Valley Dr., Billings	Yellowstone	Republican
James, David F.	Joplin	Liberty	Democrat
*Keller, Webster	Fishtail	Stillwater	Democrat
*LaCombe, C. E.	Superior	Mineral	Democrat
Lehrkind, Carl, Jr.	610 S. Willson, Bozeman	Gallatin	Republican
MacDonald, John J.	Jordan	Garfield	Democrat
Mackay, William R.	Roscoe	Carbon	Republican
*Mahoney, Eugene H.	104 Spruce, Thompson Falls	Sanders	Democrat
Manning, Dave M.	Hysham	Treasure	Democrat
McDonnell, A. Ronald	Big Timber	Sweet Grass	Republican
*McGowan, Gordon	Highwood	Chouteau	Democrat
*McKenna, George S.	Windham	Judith Basin	Democrat
*McKenna, James E.	Bank Electric Bldg., Lewistown	Fergus	Democrat
McKeon, John L.	316 E. 7th St., Anaconda	Deer Lodge	Democrat
*Michels, Lloyd J.	Medicine Lake	Sheridan	Democrat
*Morrow, Donald J.	Baker	Fallon	Democrat
Nees, Stanley R.	Poplar	Roosevelt	Democrat
Newman, Dave E.	Elliston	Powell	Democrat
*Nixon, Richard	Hogeland	Blaine	Democrat
O'Neill, R. T.	Roundup	Musselshell	Democrat
*Reardon, Frank D.	30 E. Iron St., Butte	Silver Bow	Democrat
*Rice, Paul R.	Bynum	Teton	Democrat
*Rieder, Arnold	Boulder	Jefferson	Democrat
Rostad, Carl	Lennep	Meagher	Republican
*Sagunsky, Walter G.	Sheridan	Madison	Republican
Schoonover, Leland H.	Polson	Lake	Democrat
Shaw, James N.	Hodges	Dawson	Republican
*Siderius, George	Somers Stage, Kalispell	Flathead	Democrat
Stein, Ben H.	Shields Route, Livingston	Park	Democrat
*Thiessen, C. R.	Lambert	Richland	Democrat
Thomas, Robert B.	Wolf Point	McCone	Republican
Ullom, Maurice J.	Conrad	Pondera	Republican
*Wilson, George W.	Shelby	Toole	Democrat

* Holdover Senator.

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House of Representatives

NAME	RESIDENCE	COUNTY	POLITICS
Aasheim, Magnus	Antelope	Sheridan	Democrat
Abel, Keith C.	432 Twelfth Ave., Havre	Hill	Democrat
Adams, Ed., Jr.	Shawmut	Golden Valley	Republican
Anderson, Jerome	2111 Fairway Drive, Billings	Yellowstone	Republican
Anderson, John H., Jr.	Alder	Madison	Republican
Asbjornson, J. O. "Boots"	Winifred	Fergus	Republican
Baldwin, Florian	Roundup	Musselshell	Republican
Bardanouve, Francis	Harlem	Blaine	Democrat
Barnard, Lloyd	Saco	Valley	Democrat
Bashor, Leonard G.	Ferdig	Toole	Democrat
Beam, W. R. "Bill"	2540 Woody Dr., Billings	Yellowstone	Republican
Bentz, C. C.	Ekalaka	Carter	Republican
Blewett, Alex, Jr.	1927 Cherry Drive, Great Falls	Cascade	Republican
Bradford, Truman G.	1st Nat'l Bank Bldg., Great Falls	Cascade	Democrat
Brenner, Paul E.	Cardwell	Jefferson	Democrat
Broeder, Fred O., Jr.	Route 4, Kalispell	Flathead	Republican
Burrell, F. O.	R. F. D. No. 2, Hamilton	Ravalli	Republican
Bush, William H. "Bill"	1001 Longstaff, Missoula	Missoula	Democrat
Cerovski, Charles	132 Thirteenth Ave. S., Lewistown	Fergus	Democrat
Conklin, Russel	2500 Fourth Ave. S., Great Falls	Cascade	Democrat
Coulter, Kenneth A.	Brusett	Garfield	Democrat
Crum, Forrest H.	626 Avenue D, Billings	Yellowstone	Republican
Daniels, M. K.	Deer Lodge	Powell	Democrat
Dykstra, Dan	1130 Hauser Blvd., Helena	Lewis & Clark	Republican
Edwards, Kenneth	C. B. Route, Glendive	Dawson	Republican
Emmons, John	1813 W. Park Ave., Anaconda	Deer Lodge	Democrat
Eskildsen, Leslie	Malta	Phillips	Democrat
Etchart, Mark S.	Glasgow	Valley	Republican
Falkenstern, Arnold H.	Terry	Prairie	Republican
Goan, William S.	46 Lewis Ave., Billings	Yellowstone	Republican
Gustafson, Raymond W.	Conrad	Pondera	Democrat
Haines, Tom	9 Janice Drive, Missoula	Missoula	Republican
Hall, Lester W.	431 S. Third, Livingston	Park	Republican
Hanks, Virgil	Star Route, Gallatin Gateway	Gallatin	Democrat
Harper, Warren W., Sr.	717 N. Second St., Livingston	Park	Democrat
Haughey, James M.	Box 2529, Billings	Yellowstone	Republican
Hawks, Clyde L.	St. Xavier	Big Horn	Republican
Hazelbaker, Frank W.	420 S. California St., Dillon	Beaverhead	Republican
Healy, John E. "Jack"	624 W. Granite St., Butte	Silver Bow	Democrat
Hibbard, Henry S.	618 Madison Ave., Helena	Lewis & Clark	Republican
Higham, Weldon O.	Belfry	Carbon	Republican
Hilling, Henry B.	1214 Ninth W., Billings	Yellowstone	Republican
Jenkins, L. V., Jr.	Hysham	Treasure	Republican
Jensen, Arthur N.	Superior	Mineral	Democrat
Jensen, Millo	Ronan	Lake	Republican
Johnson, Helen C.	610 S. Fifth, Bozeman	Gallatin	Republican
Judge, Thomas L.	417 Dearborn Ave., Helena	Lewis & Clark	Democrat
Keller, Dr. M. F.	3101 Fourth Ave. N., Great Falls	Cascade	Republican
Kolar, Ed	Geyser	Judith Basin	Republican
Kvaalen, Oscar S.	Sidney	Richland	Republican
Laas, Walter	Chester	Liberty	Democrat
Leuthold, John H.	Molt	Stillwater	Republican
Lewis, Joe H.	Browning	Glacier	Democrat
Loman, Ray M.	Ronan	Lake	Republican
Lombardi, Jerry	947 Waukesha St., Butte	Silver Bow	Democrat
Lord, Howard H.	Philipsburg	Granite	Republican
Lucas, Donald G.	1812 S. 13th W., Missoula	Missoula	Republican
Lundgren, Conrad F.	West Glacier	Flathead	Republican
Mathers, W. L.	314 S. Merriam, Miles City	Custer	Republican
McOmber, W. Gordon	Fairfield	Teton	Democrat
Melcher, John D.	Forsyth	Rosebud	Democrat
Mernin, Henry	1305 Silver Bow Homes, Butte	Silver Bow	Democrat
Moudree, Herman L.	Toston	Broadwater	Democrat
Murray, Marshall H.	1004 Second Ave. E., Kalispell	Flathead	Republican
Nelstead, Ted E.	118 N. Merriam, Miles City	Custer	Republican
Nichols, Norris	Stevensville	Ravalli	Republican
Page, Winfield E.	507 North Ave. E, Missoula	Missoula	Republican
Picard, Edward "Eddie"	1915 S. Idaho St., Butte	Silver Bow	Democrat
Pierce, John H.	1312 Parkhill Dr., Billings	Yellowstone	Republican
Raundal, Robert S. "Bob"	Winnett	Petroleum	Democrat
Reed, Bess R. (Mrs. Dallas J.)	225 LaVasseur, Missoula	Missoula	Republican
Regan, Leonard D.	2805 Third Ave. N., Great Falls	Cascade	Democrat
Reinecke, Fred W.	Wibaux	Wibaux	Republican
Rosell, Antoinette Fraser	106½ Clark Ave., Billings	Yellowstone	Republican
Rygg, Sterling	Whitefish	Flathead	Republican

Compiled and published from the official files of Frank Murray, Secretary of State, Helena, Montana.

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HOUSE OF REPRESENTATIVES—(Continued)

Names	RESIDENCE	COUNTY	POLITICS
Schwinden, Ted	Wolf Point	Roosevelt	Democrat
Schye, Elmer	White Sulphur Springs	Meagher	Republican
Seymour, L. G	1926 Central Ave., Great Falls	Cascade	Republican
Shelden, Arthur H	Libby	Lincoln	Democrat
Smith, Carl M	Olive	Powder River	Republican
Spahr, William E	122 Twelfth St. N., Great Falls	Cascade	Democrat
Spilde, Gene	Big Timber	Sweet Grass	Republican
Stearns, Wesley W	Plains	Sanders	Republican
Stimatz, Lawrence G	1943 Florence Ave., Butte	Silver Bow	Democrat
Stranahan, C. G	Box 25, Fort Benton	Chouteau	Democrat
Sullivan, Earl R	705 W. Fourth St., Anaconda	Deer Lodge	Democrat
Sullivan, Tim J	2280 Cross Drive, Butte	Silver Bow	Democrat
Swanz, E. A	Harlowton	Wheatland	Republican
Teigen, Palmer E	Scobey	Daniels	Democrat
Thompson, John N	1213 S. Fifth, Bozeman	Gallatin	Republican
Twedt, Gordon R	Rudyard	Hill	Democrat
Wayrynen, Ray J	133 E. Broadway St., Butte	Silver Bow	Democrat
Weeks, S. A., M. D	Baker	Fallon	Republican
Wright, J. Stewart	Wolf Point	McCone	Republican

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97	3		An Act to Relieve the State Board of Examiners of the Duty to Approve Liquidated Claims and to Provide for the Pre-audit of Such Claims by the State Controller After Authorization of the Expenditure by the Officer or Governing Board of the Department Concerned; to Amend the Following Sections to Delete the Requirement That the Board of Examiners Process Claims for Expenditures; Section 79-104, Revised Codes of Montana, 1947, Relating to the State Auditor, Section 79-202, Revised Codes of Montana, 1947, Relating to the State Treasurer, Sections 82-1101, 82-1105, and 82-1152, Revised Codes of Montana, 1947, Relating to the State Board of Examiners, Sections 93-306 and 93-314, Revised Codes of Montana, 1947, Relating to District Judges, Sections 94-9825 and 94-9826, Revised Codes of Montana, 1947, Relating to the Board of Pardons, Section 44-410, Revised Codes of Montana, 1947, Relating to the State Law Library, Sections 44-514 and 44-515, Revised Codes of Montana, 1947, Relating to the Historical Society Library, Section 19-121, Revised Codes of Montana, 1947, Relating to the Montana Fine Arts Commission, Section 23-1815, Revised Codes of Montana, 1947, Relating to the State Board of Canvassers, Section 26-123, Revised Codes of Montana, 1947, Relating to the Fish and Game Commission, Section 32-1620, Revised Codes of Montana, 1947, Relating to the State Highway Commission, Sections 46-202, 46-224, 46-228, Revised Codes of Montana, 1947, Relating to the Livestock Sanitary Board, Sections 46-1909 and 46-1914, Revised Codes of Montana, 1947, Relating to the Livestock Commission, Section 46-2306, Revised Codes of Montana, 1947, Relating to the Grass Conservation Commission, Section 59-540, Revised Codes of Montana, 1947, Relating to the Board of Examiners, Section 77-151, Revised Codes of Montana, 1947, Relating to the National Guard, Section 80-747, Revised Codes of Montana, 1947, Relating to the State Prison, Section 80-748, Revised Codes of Montana, 1947, Relating to County Sheriffs and Section 82-2212, Revised Codes of Montana, 1947, Relating to the Secretary of State; and to Repeal Sections 59-541, 82-1109, 82-1110, 82-1111, 82-1112, 82-1120, 46-1910 and 46-1911, Revised Codes of Montana, 1947; and Containing a Repealing Clause.	307
98	5		An Act to Provide That the Controller Shall Be Appointed by the Governor, Be Responsible to the Governor and Serve at the Governor's Pleasure and to Delete Reference to the Salary of the State Controller by Amending Sections 82-106 and 82-107, Revised Codes of Montana, 1947.	318
99	Sub. 26		An Act Relating to the Qualifications of Election Judges and Election Clerks Prohibiting a Candidate, the Spouse of a Candidate or One Related Within the Second Degree of Consanguinity to a Candidate From Serving as an Election Judge or Election Clerk; Excepting School Elections and Candidates for Precinct Committeeman and Committeewoman; and Containing a Repealing Clause.	319
100	54		An Act to Amend Section 32-2197, Revised Codes of Montana, 1947, as Enacted by Section 94, Chapter 263, Laws of 1955, Relating to Requirement of Drivers to Stop for School Busses Receiving or Discharging School Children Outside of Business or Residence Districts; Requiring	

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			Drivers to Stop for School Busses Receiving or Discharging School Children Outside the Limits of a Corporate City or Town; Repealing All Acts or Parts of Acts in Conflict Herewith.	320
101	132		An Act to Amend Section 31-147, Revised Codes of Montana, 1947, Relating to Authority of Board to Suspend or Revoke License; Striking the Word 'Revoke' From Title of Section; Authorizing Board to Suspend License or Driving Privilege of Person Who Falsifies Application for License; Authorizing Board to Issue Probationary License to Unsafe Drivers as Is Shown by Driving Record; Providing that Board Shall Determine Restrictions for Such Probationary License and Requiring Licensee to Obey Restrictions; Establishing Term of Probation; Requiring Licensee to Surrender All Current Licenses and Authorizing Board to Suspend for Refusal or Neglect to Surrender Such Licenses; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed.	321
102	140		An Act to Amend Section 84-1505 of Replacement Volume 5, of the Revised Codes of Montana, of 1947, Relating to the Assessment, Payment and Collection of the Montana Corporation License Tax by the Montana State Board of Equalization; Specifying the Time of Payment of Tax by Corporations on a Calendar Year Basis and Corporations on a Fiscal Year Basis; Providing for Penalties in Cases of Refusal or Neglect to Make Returns, and in Cases of Erroneous, False or Fraudulent Returns; Providing for Penalties for the Nonpayment of the Corporation License Fee; Providing for Refund; Providing for Levy Upon and Sale of Real and Personal Property for Nonpayment of Corporation License Income Tax; Providing That Actions May Be Brought by the Attorney General of Montana at the Request of the Board of Equalization; Providing for an Effective Date of This Act; and Containing a Repealing Clause.	323
103	163		An Act to Amend Section 84-301, Revised Codes of Montana, 1947, as Amended in Section 1, Chapter 45, Laws of 1951; as Amended in Section 1, Chapter 178, Laws of 1951; as Amended in Section 1, Chapter 88, Laws of 1957, Relating to Classification of Property for Taxation, and Providing That Trailers Affixed to the Land on Land Owned, Leased or Under Contract of Purchase by the Trailer Owner, to Be Included in Class Four (4); and Containing a Repealing Clause, and Providing for an Effective Date.	326
104		28	An Act to Amend Section 75-3611, Revised Codes of Montana, 1947, Relating to the Foundation Program; Defining Terms; Providing for Determining Average Number Belonging; providing for Reopening a Closed School; Providing for Opening a New School; Containing a Repealing Clause; and Fixing an Effective Date.	328
105		177	An Act to Amend Section 75-1632, Revised Codes of Montana, 1947, Relating to the Duties of Boards of Trustees of School Districts; Making Trustees and Janitors Responsible for Proper Maintenance of Privies, Outhouses and Toilets; and Containing a Repealing Clause.	330
106		181	An Act to Amend Sections 59-801 and 59-802 of the Revised Codes of Montana, 1947, Relating to Mileage to Be Paid to State Officers, Employees and Other Classes of Persons; to Provide for an Increase in the Mileage Payments to Members of the Legislative Assembly, State Officers, Township Officers, Jurors, Witnesses, County Agents, State or County Officers and Employees, and All Other Persons, Except Sheriffs, Who May Be Entitled to Mileage; Containing a Repealing Clause.	334
107		193	An Act to Amend Section 69-2701, Revised Codes of Montana, 1947, Enacted as Section 1, Chapter 273, Session Laws of 1959, Relating to the Definition and Prohibition of Fireworks to Provide That It Will Be Unlawful for any Individual Under Twenty-one (21) Years of Age to Possess for Sale, Sell or Offer to Sell, Within the State of Montana, Permissible Fireworks as Defined; to Provide Further That It Shall be Unlawful for Wholesalers to Sell or Offer to Sell Fireworks, Except as Defined, Within the State of Montana; and Providing an Effective Date.	335
108		215	An Act to Amend Section 59-538 of the Revised Codes of	

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109		97	An Act to Amend Section 32-2142 (2) Revised Codes of Montana, 1947, as Enacted by Section 39, Chapter 263, Laws of 1955, as Amended by Section 1, Chapter 194, Laws of 1957, Relating to Persons Operating Motor Vehicles While Under the Influence of Intoxicating Liquor or of Drugs; Providing for the Use of Chemical Analysis of Blood, Urine, Breath or Other Bodily Substance to Measure Degree of Intoxication of Drivers; Providing That Milligrams of Alcohol Per One Hundred (100) Milligrams of Blood Shall Be Basis of Per Cent of Alcohol in the Blood; Providing Concurrent Jurisdiction Over Violations Occurring Within the Limits of Municipalities, Pertaining Respectively to Driving While Intoxicated; Providing for the Imposition of Fines and Penalties by Municipalities for Such Violations; Deleting That Portion of Section Which Authorizes the Board to Issue Restricted License; Repealing Section 32-2142 (1) as Enacted by Section 39, Chapter 263, Laws of 1955, as Amended by Section 3, Chapter 201, Laws of 1957 and All Acts or Parts of Acts in Conflict Herewith.	339
110		98	An Act to Amend Section 31-124, Revised Codes of Montana, 1947, Relating to Definition of Suspension, Revocation and Cancellation; Providing That All Acts or Parts of Acts in Conflict Herewith are Hereby Repealed.	341
111		255	An act to Validate and Confirm Sales or Dispositions Heretofore Made or Attempted to Be Made by Any County of Any Property in Which Such County Had or Claimed Any Right, Title or Interest and All Instruments of Transfer or Conveyance Heretofore Made or Executed by any County, and to Declare That All Such Sales, Dispositions and Instruments Have Vested in the Grantee or Purchaser, as of the Date Thereof, Such Right, Title and Interest as Is Purported to Be Transferred by Such County in and to the Property Described or Covered; Containing a Repealing Clause and Providing for an Effective Date.	342
112		271	An Act to Amend Section 16-2012 of the Revised Codes of Montana, 1947, Relating to Bonds Issued by Counties; and Containing an Effective Date.	343
113		Sub. 282	An Act to Provide That the State Stock Inspector or any Other Authorized Person May Seize Hide or Hides When a Brand Has Been Mutilated or Ownership Cannot Be Determined; to Provide for Sale of the Seized Hide or Hides; to Provide for Disposition of the Proceeds Therefrom; and to Provide for the Rightful Owner to Make a Claim Against Said Proceeds.	344
114		Sub. 297	An Act to Amend Section 75-2201, Revised Codes of Montana, 1947, and to Amend Section 75-2203, Revised Codes of Montana, 1947, Relating to the School Day and School Year; Establishing One Hundred Eighty Days Minimum Per School Year; Requiring School Day to Meet Requirements; Providing for Forfeiting of Interest and Income Funds by School Districts Not Meeting Requirements.	345
115		367	An Act to Amend Section 66-816, Revised Codes of Montana, 1947, Pertaining to Renewal of Licenses and Certificates of Cosmetologists by Providing for a Penalty for Late Renewal.	346
116		393	An Act to Amend Section 25-102, Revised Codes of Montana, 1947, Relating to Fees to Be Paid to the Secretary of State; to Provide for an Increase, in Certain Cases, of Fees to Be Paid to the Secretary of State for Issuing Certificates, Filing Documents, Recording Documents, Affixing Certificates and Seals and Performing Other Services.	347
117		394	An Act to Amend Section 14-127, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State by Credit Unions from Five Dollars ($5.00) to Forty Dollars ($40.00); to Amend Section 14-201, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State for Issuing a License to Commissioners to Open Books for Subscription of a Cooperative Association from Five Dollars ($5.00) to Twenty Dollars ($20.00); to	

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118	33		An Act to Amend Section 55-1004, of the Revised Codes of Montana, 1947, Relating to Inland and Foreign Bills of Exchange.	363
119	47		An Act to Amend Section 32-2148, Revised Codes of Montana, 1947, as Enacted by Section 45, Chapter 263, Laws of 1955, as Amended by Section 1, Chapter 241, Laws of 1957, Relating to Special Speed Limitation on Trucks, Truck-tractors, Motor-driven Cycles and Vehicles Towing House Trailers; Increasing Gross Vehicle Weight of Trucks and Truck-tractors Which Are Restricted to Speed Limit of Fifty (50) Miles Per Hour; Repealing All Acts or Parts of Acts in Conflict Herewith.	363
120	55		An Act to Amend Section 31-129, Revised Codes of Montana, 1947, Relating to the Issuance of Instruction Permits and Temporary Licenses; Requiring Drivers to Be Fifteen (15) Years Old to Be Eligible for Such Permits or Licenses; Increasing Life of Instruction Permit to Six (6) Months; Repealing All Acts or Parts of Acts in Conflict Herewith.	364

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122	81		An Act to Amend Section 53-102 (1755.1), Revised Codes of Montana, 1947, Relating to Penalty for Violations and Enforcement of Provisions of Motor Vehicle Registration Laws; Providing Penalties for Violation of Sections 53-106, as Amended, 53-106.1, 53-106.2, 53-106.6, 53-107, as Amended, 53-108, as Amended, and 53-109, as Amended, Revised Codes of Montana, 1947, Repealing All Acts or Parts of Acts in Conflict Herewith.	367
123	125		An Act to Amend Section 32-404 of Replacement Volume 3, of the Revised Codes of Montana, of 1947, Relating to Establishing, Altering or Vacating Highways; Providing That After the County Commissioners and the County Surveyor Have Considered the Petition, They Shall Within Ten (10) Days Notify by Certified Mail the Petitioners and All Land Owners as Disclosed by the Last Assessment Rolls of the County, Owning Land Abutting the Road.	368
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125		130	An Act to Amend Section 31-146, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 192, Laws of 1957; Relating to Mandatory Revocation of License or Operating Privilege by Board; Requiring Board to Revoke License Upon Receiving Record of Conviction or Forfeiture of Bail Not Vacated for Offenses When Such Conviction or Forfeiture Becomes Final; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed.	369
126		159	An Act to Amend Section 75-3414, Revised Codes of Montana, 1947, Relating to School Transportation; Providing for a contingency Item in the School Transportation Budget; Requiring Copies of Transportation Contracts and Budgets to Be Transmitted to the Superintendent of Public Instruction; Containing a Repealing Clause; and Fixing an Effective Date.	371
127		206	An Act Changing the Cut-off Date for Submitting Claims for a Fiscal Year from Twenty Days Following the End of the Fiscal Year to the End of the Fiscal Year by Amending Sections 82-1109 and 59-701, Revised Codes of Montana, 1947, and Section 3, Chapter 84, Laws of 1955 Compiled as Section 59-701.2, Revised Codes of Montana, 1947.	374
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129		237	An Act to Amend Section 94-602, Revised Codes of Montana, 1947, Concerning the Crime of Assault in the Second Degree to Provide for Increasing the Punishment by Imprisonment in the State Prison for Six (6) Instead of Five (5) Years.	376
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132		241	An Act to Amend Sections 10-611 and 10-633, Revised Codes of Montana, 1947, Relating to Hearings Had in Juvenile Courts; Providing for the Admission of the General Public and Publicity in Certain Cases; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing for an Effective Date of This Act.	379
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135		376	An Act to Amend Sections 89-1803 and 89-1804 of the Revised Codes of Montana, 1947, Relating to the Rate of Charge and Apportionment of Annual Tax Levy Against Lands in Irrigation Districts and Providing for a Minimum Charge of Five Dollars ($5.00) Against Any Separately Owned Tract of Land Within an Irrigation District Regardless of the Size of Said Tract; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	387
136		447	An Act to Repeal Section 16-1621, Revised Codes of Montana, 1947, Relating to the Payment of Contracts for the Construction and Maintenance of Improvements in Rural Improvement Districts; to Amend Section 16-1620, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 3, Laws of 1955, and Section 7, Chapter 260, Laws of 1959, Relating to the Form and Terms and Use of Bonds and Warrants of Rural Improvement Districts; Providing That the Bonds and Warrants of Rural Improvement Districts Shall Be Sold by the Board of County Commissioners to the Highest and Best Bidder and Payment of Contracts of Rural Improvement Districts Made from the Proceeds of Such Sale of Bonds and Warrants; Prescribing the Procedure to Be Followed in Connection With the Sale of Such Bonds and Warrants; Repealing All Acts and Parts of Acts in Conflict Herewith.	391
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143	133		An Act to Amend Section 5-1117 of the Revised Codes of Montana 1947, Relating to the Disposition of Unclaimed Funds of Liquidated Banks by Providing for Deposit of Funds and Accumulated Interest in the General Fund; Providing for Application to the State Board of Examiners by Depositors or Creditors for Amounts Due; Providing for Transmission to the Legislative Assembly of Approved Applications; and Providing for Deposit of Funds and Accumulated Interest on Hand in the General Fund.	404
144	155		An Act to Amend Section 81-1707, Revised Codes of Montana, 1947, Relating to Rule Making Power of the State Board of Land Commissioners; Requiring Formulation, Publication and Distribution of Rules and Regulations and Containing a Repealing Clause.	406
145	171		An Act to Amend Section 3-202, Revised Codes of Montana, 1947, Relating to Fees to Be Paid State Sealer of Weights and Measures for Inspection of Scales; Providing for an Inspection Fee of Eight Dollars ($8.00) for Automatic or Hopper Shipping Scales up to and Including Ten (10) Ton Capacity; Providing for Raising the Fee for Inspection of Scales With a Capacity of Up to and Including Ten (10) Tons from Eight Dollars ($8.00) to Ten Dollars ($10.00); Providing for an Effective Date and Repealing Clause.	406
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152		413	An Act to Amend Section 11-616, Revised Codes of Montana, 1947, Relating to Vacation of Recorded Plats to Provide That Any Plat Prepared and Recorded as Provided by Section 11-2801, Revised Codes of Montana, 1947, May Be Vacated, Either in Whole or in Part, and Upon Such Vacation the Title to the Streets and Alleys of Such Vacated Portions, to the Center Thereof, Shall Revert to the Owners of the Property Adjacent to Such Vacated Portions; Provided That If Public Utility Facilities Are Located in Such Vacated Streets or Alleys, the Owner Thereof Shall Have an Easement for Such Public Utility Facilities.	423
153		442	An Act to Regulate the Giving or Furnishing of Trading Stamps or Other Similar Devices, Requiring a State License for Engaging in Such Business; Providing Certain Exemptions; Providing a Penalty for the Violation Thereof, and Providing an Effective Date.	424
154	193		An Act to Authorize the State Board of Equalization to Acquire Additional Information Reports on Payments to Nonresidents Not Subject to State Income Tax Withholding and Authorizing the Board to Adopt Rules and Regulations Requiring the Filing of Such Reports; to Provide That the Board May Order Additional Withholdings on Certain Other Payments Upon Finding Such Action Necessary to Insure Collection of Montana State Income Taxes Upon Income of Nonresidents; to Provide for the Method of Collection and Payment of Amounts Withheld; to Provide for and Define the Duties of Withholding Agents Under the Act and Penalties for Failure of Such Agents to Withhold or Pay; and to Provide Additional Powers and Duties of the State Board of Equalization Under This Act, by Amending Sections 84-4903.2, 84-4903.5, and 84-4903.7, Revised Codes of Montana, 1947, as Enacted by Sections 2, 5 and 7 of Chapter 208, Session Laws of 1959; and Providing a Saving Clause, and Containing a Repealing Clause.	426
155		131	An Act to Amend Section 84-1501, Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 232, Laws of Montana, 1957, and Section 1 of Chapter 264, Laws of Montana, 1959, Relating to Corporation License Tax and Organizations Exempt Therefrom by Deleting the Exemption Applicable to Mutual Savings Banks Not Having Capital Stock Representing Shares, to Domestic Building and Loan Associations or Cooperative Banks, to Labor, Agricultural or Horticultural Cooperatives Organized and Operating on a Cooperative Basis for Marketing Products and Purchasing Supplies, to Business Done With the United States, or State of Montana or Its Political Subdivisions; Providing an Effective Date for This Act; and Repealing All Acts and Parts of Acts in Conflict Therewith.	429
156		27	An Act to Amend Section 87-103, Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 140, Laws of Montana, 1957; Section 87-104, Revised Codes of Montana, 1947, as Amended by Section 3 of Chapter 140, Laws of Montana, 1957; Section 87-105, Revised Codes of Montana, 1947, as Amended by Section 2 of Chapter 140, Laws of Montana, 1957; Section 87-106, Revised Codes of Montana, 1947; as Amended by Section 1 of Chapter 171, Laws of Montana, 1957; Section 87-109, Revised Codes of Montana, 1947, as Amended by Section 3 of Chapter 171, Laws of Montana, 1957; Section 87-120, Revised Codes of Montana, 1947; Section 87-128, Revised Codes of Montana, 1947, as Amended by Section 7 of Chapter 171, Laws of Montana, 1957; Section 87-139, Revised Codes of Montana, 1947; Section 87-145, Revised Codes of Montana, 1947, as Amended by Section 7 of Chapter 164, Laws of Montana, 1955; Section 87-149, Revised Codes of Montana, 1947, as Amended by Section 12 of Chapter 171, Laws of Montana,	

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			1957; Section 87-152, Revised Codes of Montana, 1947; and to Repeal Section 87-144, Revised Codes of Montana, 1947, All of Which Sections Are a Part of and Pertain to the Unemployment Compensation Law; by Providing for New Bracketing in the Determination of High-Quarter Wages in the Benefit Schedule and Eliminating Certain Steps of Such Schedule; by Increasing the Minimum Weekly Benefit Amounts; by Increasing the Maximum Weekly Benefit Amounts; by Providing for Variable and Increased Duration of Benefits; by Providing for a One Week Waiting Period; by Changing the Provisions Relative to Disqualification for Benefits; Increasing the Average Annual Contribution on Taxable Payrolls to 1.5 Per Centum; Providing for an Average Annual Contribution on Taxable Payrolls of 2 Per Centum Whenever Trust Fund Reserves Fall Below $20,000,000.00 and Until Reserves Exceed $26,000,000.00 and Providing Further for a Uniform Contribution of 2.7 Per Centum for All Taxable Employers If Reserves Are Still or Later Fall Below $20,000,000.00 After One Year; Reducing the Minimum Trust Fund Balance Below Which All Employer Tax Rates Will Automatically Become 2.7 Per Centum, and Reducing the Required Amount Necessary in the Trust Fund Before Employer Tax Rates Will Again Be Based Upon Experience Rating; Allowing Abatement of Certain Charges to Employer Accounts by Reason of Benefits Paid; Correcting Ambiguous Wording; Revising the Period of Time to Be Reported in the Annual Report of the Commission to the Governor Covering the Administration and Operation of the Unemployment Compensation Law and the Date Such Report Shall Be Submitted; Requiring Commission Cooperation with the Secretary of Labor in Administering Acts of Congress to Pay Unemployment Compensation Benefits to Federal Employees, Veterans and Ex-service Personnel of the Armed Forces of the United States; Empowering the Unemployment Compensation Commission in Its Discretion to Perform All Acts and Execute Agreements Authorizing the Extension of Unemployment Compensation Benefits by Federal Law; Repealing Section 87-144 Which Provides for Payment of State Unemployment Compensation Benefits to Certain Ex-servicemen of the Armed Forces of the United States; Revising the Period of Time Within Which the Commission May Issue a Certificate and Lien Against Any Employer for Failure to Pay Contributions Due; Amending the Penalties for False Statements or Willful Nondisclosures; Revising the Definition of 'Total Unemployment'; Providing a Definition for 'Gross Misconduct'; Entering the Name of the Proper Federal Agency in Section 87-152; Providing a Saving Clause; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	432
157		32	An Act to Amend Section 53-504, Revised Codes of Montana, 1947, Relating to the Power and Authority of the Governor to Formulate Rules and Regulations Governing the Use and Operation of State Owned Vehicles; Deleting Obsolete Vehicle Specifications Relating to Purchase of Motor Vehicles of United States Manufacture; Providing That New Motor Vehicles Shall Be Purchased on Basis of Low Bid as Per Specifications; Repealing All Acts or Parts of Acts in Conflict Herewith; Providing Effective Date of This Act.	453
158		36	An Act Providing That Student Fees That Have Been Pledged for the Liquidation of Obligations Incurred for the Construction of Facilities at Units of the University of Montana Are Not Tuition, and Limiting the Use to Which Such Student Fees May Be Put.	455
159		Sub. 53	An Act Providing for the Giving of Reasonable Notice in Writing to Publisher and Reasonable Opportunity to Correct Libelous or Defamatory Matter as Prerequisite to Commencement of Action on Account of Any Libelous or Defamatory Publication in Any Newspaper, Magazine, Periodical, Radio or Television Station: Providing What Shall Constitute a Correction of Such Libelous or Defamatory Matter; Providing That a Correction Published in Accordance With the Provisions of This Act Shall Constitute a Defense Against the Recovery of Any Damages Except Actual Damages, Provided the Publication Was Made Under Honest Mistake or Misapprehension; Providing That Such Correction Shall Be Competent and Material in Mitigation of Actual Damages to the Extent Such Correction Does So Mitigate Such Damages; Repealing All Acts or Parts of Acts in Conflict Herewith.	455

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160		Sub. 90	An Act to Amend Section 66, Chapter 286, Laws of the Thirty-sixth Legislative Assembly, 1959, Relating to the Tax on Net Premiums of Insurers; Increasing from Two Percent to Two and One-Quarter Percent the Tax on Such Premiums for Each of the Calendar Years 1961 and 1962; and Repealing All Acts and Parts of Acts in Conflict Herewith.	457
161		99	An Act to Amend Section 31-149, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 126, Laws of 1957, Relating to Period of Suspension and Revocation; Deleting Provision Which Makes an Exception to Suspension Under Section 32-1202, Revised Codes of Montana, 1947; Excepting Sections 31-148, 53-424 and 53-430, Revised Codes of Montana, 1947, from the Provisions of this Section, Establishing Periods of Suspension and Revocation for the Offense of Driving While Under the Influence of Intoxicating Liquor or Drugs, or Combination Thereof; Repealing All Acts or Parts of Acts in Conflict Herewith.	460
162		140	An Act Amending Section 92-701, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, and Amending Section 92-702, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, and Amending Section 92-703, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, and Amending Section 92-704, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, and Amending Section 92-709, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, All Relating to Increases in Workmen's Compensation and Benefits for Temporary Total, Permanent Total, or Partial Disabilities, Injury Causing Death, and Specified Injuries; and Amending Section 92-418, Revised Codes of Montana, 1947, Relating to the Definition of 'Injury' or 'Injured'; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	461
163		142	An Act to Amend Section 75-4609, of the Revised Codes of Montana of 1947, as Amended by Chapter 147, Laws of 1959, Relating to a Special Levy Election in a High School District, and Providing the Election May Be Called by the Board of Trustees of a High School District; and Containing a Repealing Clause and Effective Date.	471
164		168	An Act for the Submission to the Qualified Electors of the State of Montana an Amendment to Section 19 of Article VIII of the Constitution of the State of Montana Relating to the Election, Qualifications, Term of Office, Salary, and Duties of County Attorneys, to Provide That the Term of Office of County Attorneys Shall Be Four (4) Years.	472
165		194	An Act to Amend Section 82-1519 of the Revised Codes of Montana, 1947, Pertaining to the State Board of Hail Insurance by Changing the Provisions Pertaining to the Salary of the Chairman and Per Diem, Mileage and Compensation of the Personnel of the Department; Repealing All Acts or Parts of Acts in Conflict Herewith; and Containing an Effective Date.	473
166		Sub. 221	An Act to Amend Section 10-622, Revised Codes of Montana, 1947, as Amended by Chapter 177, Laws of 1957, Relating to the Appointment, Removal and Salaries of Probation Officers for the Juvenile Departments of District Courts in the State of Montana; Providing for a Salary Increase; Repealing All Acts and Parts of Acts in Conflict Herewith; and Containing an Effective Date.	474
167		231	An Act to Amend Section 66-114 of the Revised Codes of Montana of 1947, Which Was Enacted as Section 2 of Chapter 190 of the Laws of 1953 and Was Amended by Section 2 of Chapter 68 of the Laws of 1957, Relating to the Maximum Rates of Compensation Which May Be Paid by the State, Counties, Cities and School Districts to Architects for Services Rendered in Planning and Construction of Public Buildings, by Adding Gymnasiums to the Buildings Listed in Conventional Types of Buildings, and by Providing the Maximum Fees Designated Therein Shall Apply to Individual Buildings Within a Project and to Individual Contracts for the Same Building, and to Amend Section 66-115 of the Revised Codes of Montana of 1947, Which Was Enacted as Section 3 of Chapter 190 of the Laws of	

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			1953, Relating to Payment by the State, Counties, Cities, and School Districts to Architects for Extra Services and Providing When All Compensation Due Architects may be Distributed and Paid, by Adding Certain Clarifying Language and by Providing Architects Shall Be Paid in Accordance With the Compensation Schedule for Work Requested by the Owner or Its Duly Authorized Agent and Within the Scope of His Authority to the Extent Authorized But Abandoned by the Owner in Whole or in Part; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing This Act Shall Be in Full Force and Effect From and After Its Passage and Approval.	475
168		247	An Act Relating to Agricultural Seeds; Amending Section 3-802, Revised Codes of Montana, 1947, to Provide for Prohibition of Certain Grass Mixtures and Permitting Others; Providing a Definition.	479
169		324	An Act to Amend Section 75-4603 of the Revised Codes of Montana of 1947, Relating to Issuance of Bonds by High School Districts and Providing That Bonds May Be Issued to the Full Amount Permitted by Section 6 of Article XIII of the Montana Constitution, as Amended, and Providing an Effective Date.	483
170		410	An Act to Amend Section 10-507, Revised Codes of Montana, 1947, Relating to the Amount of County's and Parent's Contribution for Children in Montana Children's Center; to Provide for an Increase in the Amounts to Be Paid by Counties and Parents for Children in the Montana Children's Center from Ten Dollars ($10.00) Per Month to Twenty-five Dollars ($25.00) Per Month.	484
171		38	An Act to Amend Section 75-2506, Revised Codes of Montana, 1947, Relating to Revocation and Suspension of Teachers' Certificates for Causes Including Contract Violation and Containing a Repealing Clause.	485
172		Sen. Sub. for 165	An Act to Provide That an Indictment, Information, Complaint or Accusation May Charge Two or More Offenses Under Separate Counts; Providing for the Consolidation of Two or More Indictments, Informations, Complaints, or Accusations; Providing That Election by Prosecution Is Not Required; Providing That Conviction May Be Had on Any Number of Offenses Charged; Providing for a Statement in Verdict, and That the Court May Order Trial of Different Offenses Charged Separately or in Groups; Providing for Effect of Acquittal on Part of Counts; Amending Section 94-6703, Revised Codes of Montana, 1947, Relating to Demurrers in Criminal Cases, by Deleting Subsection (3) Thereof; and Repealing Section 94-6407, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith.	486
173		201	An Act to Provide That Any Person, Other Than the Owner, His Agent or Employee, Who, Without Consent of the Owner, Removes or Causes to Be Removed from This State, any Cow, Ox, Bull, Stag, Calf, Steer, Heifer, Horse, Mule, Mare, Colt, Foal, or Filly Without an Inspection Where Such Inspection Is Required by Law Shall Be Guilty of a Felony; Providing, However, That This Act Shall Have no Application to the Removal of Livestock From This State for Emeregency Treatment by a Licensed Veterinarian, Excluded From This Act.	488
174		Sen. Sub. for 212	An Act Relating to Standards for Petroleum Products, and the Regulation of Manufacture and Distribution of Such Products: Permitting the Commissioner of Agriculture to Determine the Standards for All Petroleum Products Sold in Montana and Transferring Enforcement Duties from the Public Service Commission to the Commissioner of Agriculture by Creating New Sections, by Amending Sections 60-204, 60-205, 60-210, 60-211, 60-212, 60-213, 60-214, 60-217, 60-219, 60-220 and 60-222, Revised Codes of Montana, 1947, and by Repealing Sections 60-203, 60-206, 60-207, 60-208, 60-209, and 60-221, Revised Codes of Montana, 1947.	489
175		218	An Act Amending Section 69-3304, Revised Codes of Montana, 1947, Enacted as Section 4, Chapter 235, Laws of 1955, Relating to Geophysical Exploration and Referring to Proper Plugging of 'Shot Holes' and Restoration of Surface Around Same to Original Condition; Providing Effective Date.	495

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176		242	An Act to Be Known as the Montana Water Well Contractor's License Act; Declaring That the Drilling or Making of Water Wells Is a Business Affecting the Public Interest; Creating the Water Well Contractor's Examining Board of the State of Montana; Providing for Its Members, Terms, Oath, Seal and Employees; Providing for the Powers and Duties of the Board; Providing for the Issuance of Licenses by the Board and Fees to Be Charged Therefor; Providing for the Term of the License Year; Providing for Examination and Qualifications of Applicants for Licenses; Providing for a Bond to Be Approved by the Board; Providing for Revocation and Suspension of Licenses; Providing for Appeals for Licensees From Decisions of the Board; Providing That No Action or Counterclaim Can Be Maintained Except by Licensee; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing an Effective Date of the Act.	496
177		399	An Act to Amend Section 4-329 of the Revised Codes of Montana of 1947, Relating to the Right of Licensed Retailers to Sell or Furnish Beer to the Public for Consumption Off the Premises of Such Retailer, by Removing the limitation on quantity of Any Such Sale, and Repealing All Acts and Parts of Acts in Conflict Herewith.	505
178		96	An Act to Amend Section 32-2145, of the Revised Codes of Montana, 1947, as Amended, Providing for the Further Definition of the Word 'Highway' Wherever It May Appear in the Section by the Insertion of the Words 'State Highway' in Lieu Thereof; Repealing All Acts or Parts of Acts in Conflict Herewith.	506
179		113	An Act to Amend Sections 11-725, 11-726, 11-728, 11-729, and 11-731 of the Revised Codes of Montana, 1947, as Amended, Pertaining to Salaries and Qualifications of Mayors and Aldermen, and Salaries of Police Judges, City and Town Treasurers, City and Town Clerks, and City Attorneys; Providing for Maximum Salaries of Mayors, Police Judges, City Attorneys, and City Clerks in First Class Cities Having Populations in Excess of Fifty Thousand (50,000) Persons and in First Class Cities Having Populations of Between Twenty-five Thousand (25,000) and Fifty Thousand (50,000) Persons, All as Determined by the Last Federal Census; Providing for Maximum Salaries of Mayors and Aldermen, Police Judges, City Attorneys and City Clerks in All First Class Cities Having a Population of Less Than Twenty-five Thousand (25,000) Persons as Determined by the Last Federal Census; Providing for the Maximum Salaries of City and Town Treasurers in All First Class Cities and Providing for the Maximum Salaries of Mayors, Aldermen, Police Judges, City and Town Treasurers, City and Town Clerks, and City Attorneys in All Second Class and Third Class Cities and Towns; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing for an Effective Date.	506
180		Sen. Sub. for 135	An Act to Amend Section 32-1615 of the Revised Codes of Montana Relating to the Procurement of Rights of Way and Other Properties; Specifying the Purposes for Which Rights of Way, Easements, Lands or Other Real Property May Be Acquired by the State Highway Commission; Authorizing the State Highway Commission to Acquire Rights of Way, Easements, Lands or Other Real Property by Purchase or Exchange; Authorizing the State Highway Commission to Authorize Proceedings in Condemnation for the Acquisition of Rights of Way, Easements, Lands or Other Real Property, Excluding Oil, Gas and Mineral Rights; Providing That the Resolution of the State Highway Commission Shall Create a Disputable Presumption As to the Public Necessity of Highways and Property Required Therefor and As to Proper Planning and Location of State Highways; Providing for the Acquisition of Rights of Way, Easements, Lands or Other Real Property for Present or Reasonably Forseeable Future Highways Needs; Authorizing the State Highway Commission to Lease Unused Portions of Interstate Rights of Way; Providing That Acquisition of Rights of Way by State Highway Commission Includes the Right to Use or Dispose of Gravel or Other Road Building Materials Located Within Such Rights of Way; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing That This Act Be in Full Force and Effect From and After Its Passage and Approval.	511
181		172	An Act to Amend Section 68-1316 of Replacement Volume	

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			4, Revised Codes of Montana, 1947, Authorizing State Employees Paid Either Fully or in Part from Federal Funds, and Not Subject to the Federal Retirement System, to Become Members of the Public Employees' Retirement System of the State of Montana; Providing All Employees of the Montana Army and Air National Guard to Become Members on the First Day of Employment Except Employees in State Service on July 1, 1961, or Prior Thereto Who Have Filed an Election Not to Become Members; Providing That Employees Who Have Filed Their Election Not to Become Members May Become Members at Any Time While an Employee by Filing an Election to Become a Member and Receive Credit for Prior Service Under the Provisions of Section 68-501 (h), Revised Codes of Montana, 1947, as Amended by Chapter 92, Session Laws of 1955; Providing for an Effective Date of This Act; and Containing a Repealing Clause.	514
182		182	An Act Providing That When the State Highway Commission Constructs a Highway Through an Irrigation Project or District and Acquires Under Eminent Domain, or Otherwise, irrigable Land for Highway Purposes, or Acquires Land for Such Purposes Which Acquisition Renders Other Irrigable Land Unusable for Irrigation, the State Highway Commission Shall Pay to the Owner of the Irrigation or Drainage Project, or to the Irrigation or Drainage District, a Proportionate Share of the Unpaid Construction Costs, If Any, for the Irrigable Land So Acquired, or Such Irrigable Land Rendered Unusable for Irrigation; and Providing an Effective Date for the Act.	516
183		363	An Act to Create Regulations for the Awarding of Contracts by the State of Montana, Agencies Thereof, Political Subdivisions Thereof, School Districts and Other Public Corporations; Providing for Preference for Montana Residents and for Products Manufactured and Produced in This State; Defining the Word 'Resident'; Providing Penalties and Repealing All Acts and Parts of Acts in Conflict Herewith; Containing a Severability Clause and an Effective Date.	516
184	Sub. 12		An Act to Delete Obsolete References in the Revised Codes of Montana, 1947, Relating to State Mortgage Lands and Farm Mortgage Loans by Amending Sections 81-902, 81-909, 81-910, 81-912, 81-1701 and 81-102, Revised Codes of Montana, 1947, and Section 81-908, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 95, Session Laws of Montana, 1949, and as Amended by Section 1, Chapter 10, Session Laws of Montana, 1959, and by Repealing Sections 81-911, 81-914, 81-1901, 81-1902, 75-3730, 75-3731, 75-3732, 75-3733, Revised Codes of Montana, 1947.	518
185	Sub. 159		An Act to Amend Section 66-2401, Revised Codes of Montana, 1947, Relating to Plumbers in Cities and Towns of More Than 1,000 Inhabitants to Require Licensing of Plumbers in Certain Other Cases and to Provide Exceptions Thereto; to Amend Section 66-2403, Revised Codes of Montana, 1947, as Amended by Chapter 251, Laws of Montana, 1959, Relating to Board of Plumbing Examiners and Compensation of Board Members by Eliminating the Director of the Division of Sanitary Engineering of the Montana State Board of Health or His Duly Designated Representative and Substituting Therefor the Duly Appointed Representative of the Montana State Board of Health Who Shall Be a Sanitary Engineer and Who Shall Be a Member and Secretary of the State Board of Plumbing Examiners and by Increasing the Compensation for Members of the Board from Ten Dollars Per Diem to Twenty Dollars Per Diem; to Amend Section 66-2405, Revised Codes of Montana, 1947, to Require Master Plumbers to Deposit With the Board a Bond in the Amount of Five Thousand Dollars ($5,000.00); to Amend Section 66-2411, Revised Codes of Montana, 1947, Relating to Penalty for Violation by Plumbers in Cities and Towns of More Than 1,000 Inhabitants to Provide Penalty for Violation by Plumbers in Certain Other Cases and to Provide Exceptions Thereto; and Containing a Saving Clause.	524
186	182		An Act to Amend Sections 32-1018, 32-1019 and 32-1020 of the Revised Codes of Montana of 1947, as Enacted by Sections 1, 2 and 3 of Chapter 95, Laws of 1951, to Define the Crime of Using the National System of Interstate and Defense Highways and State Highways as a Place for the Grazing or Running of Livestock, Providing for Exceptions	

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			and Providing a Penalty for the Violation Thereof, Providing No Presumption or Inference of Negligence Shall Arise Because of a Collision, and Repealing All Acts and Parts of Acts in Conflict Herewith.	528
187	205		An Act to Amend Section 93-303, Revised Codes of Montana, 1947, as Amended by Chapter 84, Session Laws of Montana, 1951, and as Further Amended by Chapter 247, Session Laws of Montana, 1955, and as Further Amended by Chapter 198, Session Laws of Montana, 1959, Setting the Annual Salary of District Judges at Ten Thousand Seven Hundred Dollars ($10,700.00), and to Amend Chapter 202, Session Laws of Montana, 1959, Designated as Sections 25-501 and 25-501.1 in the 1959 Cumulative Pocket Supplement of Replacement Volume 2, Revised Codes of Montana, 1947, Relating to Annual Salaries of Various Elected Officials and Administrative Heads, Whatever Title They May Have, of Various Boards, Bureaus and Commissions; Defining the Scope of Salaries, But That Such Scope Shall Not Limit Certain Longevity Pay; and Containing a Repealing Clause.	530
188		71	An Act to Amend Section 66-505, Revised Codes of Montana, 1947, as Last Amended by Chapter 178, Laws of 1955, and Sections 66-510, 66-512, 66-513 and 66-515, Revised Codes of Montana, 1947, Relating to Fees for Application to Practice Chiropractic, Fees for Restoration of License, Fees for Renewal of License, Per Diem and Mileage, Fees for Reciprocal License, and Repealing All Acts and Parts of Acts in Conflict Herewith.	531
189		186	An Act to Amend Section 82-1511 of the Revised Codes of Montana, 1947, Pertaining to the Hail Insurance Fund by Providing for Reimbursements to the Counties and State.	535
190		248	An Act to Amend Section 11-3518, Revised Codes of Montana, 1947, to Provide for Protection of Tenure and Police Reserve Fund Rights for Police Officers in Cities and Towns Which Become Merged Into Consolidated County Municipalities.	536
191		249	An Act to Amend Section 11-3523, Revised Codes of Montana, 1947, to Provide for the Continuance, Creation, Support, Financing, Dissolution, Management and Change of Boundaries of Voluntary Fire Districts in Consolidated County Municipalities; and Repealing All Acts and Parts of Acts in Conflict Herewith.	538
192		250	An Act to Amend Section 11-3524, Revised Codes of Montana, 1947, to Provide for Protection of Tenure, Disability and Pension Fund Rights for Firemen in Cities and Towns Which Become Merged Into Consolidated County Municipalities.	539
193		258	An Act to Amend Section 53-617, Replacement Volume No. Three (3), Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 103, Laws of 1959, Relating to a Sales Tax on New Passenger Vehicles, by Clarifying Said Section by Specifically Stating That New Passenger Motor Vehicles Are Subject to a Sales Tax Even When in the State on the First Day of January and Are Not Subject to Any Other Assessment or Taxation; and Repealing All Acts and Parts of Acts in Conflict Herewith.	540
194		266	An Act to Amend Section 11-1001, Revised Codes of Montana, 1947, as Amended by Chapter 63, Laws of 1957, Providing for the Authorization of Cities and Towns to Furnish Water to Industries and to Persons Without City Limits to Establish Rates Therefor Subject to Public Service Commission Approval, and for Other Purposes; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing an Effective Date.	541
195		Sub. 269	An Act to Amend Section 25-605 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 66 of the Montana Session Laws, 1959, Relating to Salaries of County Officers; and Providing for an Increase in Salaries; and Containing a Repealing Clause.	543
196		273	An Act to Provide That Vegetable or Flower Seeds to Be Offered for Sale at Wholesale or Retail in the State of Montana to Be Properly Tagged and Dated to Apprise the Purchaser of Certain Information Relative to the Contents of the Seed, Weed, Content, and Germination; to Prescribe Duties of the Commissioner of Agriculture and the Director	

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			of the Montana Grain Inspection Laboratory and to Provide for Penalties for Non-compliance With This Act.	544
197		291	An Act to Amend Section 92-714, Revised Codes of Montana, 1947, and Section 92-715, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of 1957, Relating to the Manner of Payment of Compensation for Industrial Accidents, to Provide for Bi-weekly Payment of Industrial Accident Compensation.	549
198		Sub. 310	An Act to Provide for the Creation of Special Improvement Districts Including Areas Outside Towns or Cities and Including Areas Within Incorporated Towns, Cities and Rural Areas; to Own and Operate Television Translator Stations; Provide a Method to Tax All Persons Who Use Such Stations; for the Levy and Collection of Such Taxes; Provide for the Operation, Management and Control of Such Districts; the Acceptance of Gifts of Property or Money; for the Exemption of Certain Persons from the Provisions of the Act; Penalties for the Violation of the Act and Repealing All Acts in Conflict Herewith.	550
199		317	An Act to Repeal Sections 61-127 to 61-137, Both Inclusive, of the Revised Codes of Montana, 1947, Relating to the Adoption of Children; to Amend Section 61-205 of the Revised Codes of Montana, 1947, Enacted as Section 5, Chapter 240 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, to Provide That Consent to Adoption Need Not Be Required from a Father or Mother Divorced and Who Has Not Contributed to the Support of the Child for a Period of One Year If Able; and Deleting Certain Exceptions; to Amend Section 61-210 of the Revised Codes of Montana, 1947, Enacted as Section 10, Chapter 240 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, Relating to Summary Decree of Adoption, to Provide That the Report Specified in the Previous Section Remains Discretionary; to Amend Section 61-211 of the Revised Codes of Montana, 1947, Enacted as Section II, Chapter 240 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, Relating to Interlocutory and Final Decrees of Adoption, to Provide That Proper Notices Be Given of the Hearing Before an Interlocutory or Summary Decree of Adoption May Be Issued; to Amend Section 61-140 of the Revised Codes of Montana, 1947, Relating to Procedure for Adopting an Adult; to Provide for Proper Procedure for Adoption of an Adult; Amending Chapter 2, Title 61, Revised Codes of Montana, 1947, as Amended, by the Addition of Section 61-218, to Provide for the Consent of a Minor Parent; and Repealing All Acts or Parts of Acts in Conflict Herewith.	557
200		323	An Act to Provide for Issuing Temporary Permits to Unlicensed Special Fuel Users of All Special Fuel Vehicles; to Provide That Said Permits Shall Be Issued for a Minimum Fee of Twenty Dollars ($20.00) and Shall Be Valid for a Period of Time Not to Exceed Seventy-two (72) Hours; to Provide for a Method of Collection and Disposal of Said Fees; to Provide That the State Board of Equalization Shall Furnish Said Permits and Forms and Generally Enforce This Act; and Providing a Penalty.	562
201		388	An Act to Revise the Requirements, Procedures and Methods of Filing and Adopting Rates, Charges, Fares, Classifications, and Rules of Service for Motor Carriers; Repealing Section 8-104, Revised Codes of Montana, 1947, as Amended by Chapter 262, Laws of Montana, 1955; Repealing Section 8-106, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith; Providing for an Effective Date.	563
202		397	An Act to Amend Section 16-1031, Revised Codes of Montana, 1947, to Authorize Boards of County Commissioners to Establish Monthly Service Charges for Garbage and Ash Collection Purposes in Lieu of Taxation of Property Within Garbage Districts; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for an Effective Date.	567
203		436	An Act to Protect the Public from Drowning in Open Sewage Lagoons and Open Cesspools, by Requiring the Owner or Owners of Said Sewage Lagoons or Cesspools, in Areas Inhabited by Children or Attractive to Children, to Take the Necessary Precautionary Measures to be Pre-	

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			scribed by the Boards of County Commissioners in the Various Counties for Adequate Fencing or Enclosing of Said Lagoons and Cesspools; to Provide for a Penalty for Noncompliance With This Act; and to Prescribe the Duties of the Boards of County Commissioners, Sheriffs and County Attorneys in the Various Counties.	568
204	14		An Act Establishing the Lewis and Clark Highway from the Junction of Highway Ninety-three (93) at Lolo, Montana, to the Idaho-Montana State Line; Repealing All Acts and Parts of Acts in Conflict Herewith.	570
205	15		An Act to Amend Section 16-1015 of the Revised Codes of Montana, 1947, Replacement Volume Two (2) as Amended by Chapter Forty-eight (48), Session Laws of Montana, 1957, and Chapter Two Hundred and Twelve (212), Session Laws of Montana, 1959, Relating to the Powers and Duties of County Commissioners to Levy an Annual Tax on the Taxable Property of the County to Defray Current Expenses, Including Salaries Not Otherwise Provided for, Not Exceeding Sixteen (16) Mills for Any One (1) Year and to Levy Such Taxes as Are Required by Special or Local Statutes; Providing for an Additional Levy of Four (4) Mills for a Prescribed Period; and Providing for a Repealing Clause.	570
206	17		An Act Relating to Use of Telephones, to Provide a Penalty for Failure to Relinquish a Party Line or Public Pay Telephone in an Emergency; and to Provide a Penalty for False Representation of an Emergency in Order to Use a Party Line or Public Pay Telephone.	571
207	36		An Act Relating to Leasing of State Lands; Providing That the State Board of Land Commissioners May Issue Permits or Leases for the Removal of Phosphate Deposits, by Amending Section 81-701, Revised Codes of Montana, 1947.	572
208	60		An Act Adopting and Inserting as a New Chapter 2601 in Title 93, Revised Codes of Montana, 1947, the Uniform Reciprocal Enforcement of Support Act as Amended by the National Conference of Commissioners on Uniform State Laws in 1958; Providing Additional Remedies for Enforcement of Duties of Support; Providing for Criminal Enforcement by Extradition; Providing for Civil Enforcement Where Parties Reside in Different States or in Different Counties of Montana; Providing for Registration and Enforcement of Foreign Support Orders and Support Orders Issued in Different Counties of Montana; and Repealing Sections 1 Through 18 of Chapter 222, Laws of 1951, Codified as Chapter 901, Sections 94-901-1 Through 94-901-18, 1959 Cumulative Pocket Supplement to Volume 8, Revised Codes of Montana, 1947, and Repealing All Acts and Parts of Acts in Conflict Herewith and Providing an Effective Date.	573
209	62		An Act to Allow the Board of Trustees of Any Organized and Legal School District, May, in Their Discretion, Request the Use of Federal Reimbursement of Money in Lieu of Taxes to School Districts to Be Allocated to the School District Lunch Fund for Eligible Indigent Enrolled Pupils Who Are Part of the Program; Providing for the Certification of Federally Connected Indigent Pupils by the County Department of Welfare, County Superintendent of Schools, County Health Department and School District Authorized Representative, and the Board of Trustees, Prescribing the Basis for Allocation of Federal Reimbursement of Funds, and the Allocation Thereof by the County Treasurer; Providing for an Effective Date and a Repealing Clause.	584
210	77		An Act to Amend Section 16-2028, Revised Codes of Montana, 1947, Relating to County Bond Issues, to Provide That Authority to Issue Bonds as Previously Granted by a Bond Election May Be Rescinded if the Bonds Have Not Been Sold Within Three Years of the Date of the Election and If no Vested Rights Have Accrued Under the Bond Issue.	586
211	Sub. 86		An Act to Amend Section 31-125, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 37, Laws of 1951, as Amended by Section 1, Chapter 79, Laws of 1957, and as Amended by Section 1, Chapter 51, Laws of 1959, Relating to Licensing of Operators and Chauffeurs; Requiring the Surrender of All Drivers Licenses Upon	

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			Issuance of Montana License; Requiring All Surrendered Licenses to Be Forwarded to Issuing Department; Prohibiting Persons From Possessing More Than One (1) Drivers License; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed	587
212	96		An Act to Amend Section 69-103, Revised Codes of Montana, 1947, to Provide That the Executive Officer of the Board of Health Shall Receive Such Annual Salary as May Be Fixed by the Legislative Assembly.	588
213	99		An Act to Amend Section 60-132, Revised Codes of Montana, 1947, Relating to Rules and Regulations, Hearings, Notice of Hearings and Emergency Orders of the Oil and Gas Conservation Commission of the State of Montana; Amending Sub-section D. of Said Section Relative to the Manner in Which the Commission Shall Give Notice of Hearing; Repealing All Acts or Parts of Acts in Conflict Herewith.	590
214	102		An Act Authorizing the State Fish and Game Commission to Issue Special Nonresident Antelope and Special Nonresident Deer Licenses, Fixing the Fees, and Powers and Duties Under Such Licenses, and Providing That All Acts and Parts of Acts in Conflict Herewith Are Hereby Repealed, and Containing an Expiration Date.	593
215	105		An Act to Amend Section 75-3410, Revised Codes of Montana, 1947, Relating to Determination of Residences for Purposes of School Transportation; Containing a Repealing Clause; and Fixing an Effective Date.	594
216	112		An Act Relating to and Providing for the Acquisition by Eminent Domain of Interests in the Surface of Property to the Extent necessary to Mine and Extract Ores, Metals or Minerals by the Owner Thereof When the Same Are Located Beneath or Upon the Surface, the Title to Which Is Vested in Others, and to Amend Sections 93-9902 and 93-9903 of the Revised Codes of Montana, 1947, as Amended by the Laws of Montana of 1953 and 1955, Relating to the Right of Eminent Domain, and Repealing All Acts or Parts of Acts in Conflict Herewith.	595
217	Sub. 166		An Act to Amend Section 11-403, Revised Codes of Montana, 1947, as Amended by Chapter 238 of the Session Laws of 1959, Relating to the Extension of Boundaries of Cities; Providing the Procedure for Such Extension by Cities of the First Class; Providing That City Councils of Cities of the First Class May Not, Without Petition, Consider or Act Upon any Resolution of Annexation Within One Year After the Disapproval of a Prior Resolution Relating to the Same Territory or Any Portion Thereof; Repealing All Acts and Parts of Acts in Conflict Herewith and Providing an Effective Date.	598
218	167		An Act Amending Section 93-901, Revised Codes of Montana, 1947, Relating to the Disqualification of Judicial Officers; and Containing a Repealing Clause.	601
219	169		An Act to Amend Section 3 of Chapter 285, Session Laws of Montana, of 1959, Designated as Section 69-3504 of the 1959 Cumulative Pocket Supplement, of Replacement Volume 4, of the Revised Codes of Montana, of 1947, Relating to the Rules and Regulations for Numbering and Registering Motorboats and Vessels in the State of Montana by the Montana State Fish and Game Department; Providing That the Application for a Number for the Motorboat or Vessel Shall Be Accompanied by a Current Tax Certificate of Personal Property, Showing Payment Thereof for the Current Year on Said Boat or Vessel; and Containing a Repealing Clause.	603
220	172		An Act to Amend Section 60-202, Revised Codes of Montana, 1947, as Amended by Section 3, Chapter 131, Session Laws of Montana, of 1955, and as Amended by Section 2, Chapter 96, Session Laws of Montana of 1957, Relating to License Fees Required of Retail Dealers Using Measuring Devices for Gasoline, Diesel or Fuel Oil, and Tank Meters and Bulk Petroleum; and Vehicle Tanks Used for Distribution of Petroleum Products Without Meters; Providing for the Extension of the Act to Require a License Fee of Retail Dealers Using Liquified Petroleum Gas Meters on Vehicle Tanks; Containing a Repealing Clause.	607

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222		Sub. 124	An Act to Provide for the Seeding of Perennial Grass Covers on Newly Disturbed Right-of-Way Areas, Including State and Federal Highways, County Roadways, Irrigation Ditches, Drain Ditches, Borrow Pits, Slopes, Road Shoulders or Other Types of Construction; and Providing a Repealing Clause.	609
223		Sub. 65	An Act Relating to School District or County High School Funds Realized from Bond Sales for Purposes of Construction; Requiring the Officer in Charge of Such Funds to Invest Idle Funds, When Requested by the School District or County High School Governing Body, in Short-Term Obligations of the United States of America, and to Credit Interest Earned to Such School District or County High School, Notwithstanding Other Provisions; Amending Sections 16-2050 and 75-3922, Revised Codes of Montana, 1947; Repealing All Acts and Parts of Acts in Conflict Herewith.	610
224		176	An Act to Amend Sections 3-201, 3-227 and 3-228, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 145, Session Laws of Montana, 1959, Relating to Grain Standards, Storage and Inspection and Regulation of Grain Warehousemen, to Provide That Trucks and Tractor-trailer Units Shall Be Included in the Definition of 'Grain Dealer'; and to Increase the Minimum Fine for Falsifying or Failing to Make Reports or Resisting Inspection from Fifty Dollars ($50.00) to Three Hundred Dollars ($300.00); and to Increase the Minimum Fine for Failing to Obtain a License or Continuing to Operate Without a License from Twenty-five Dollars ($25.00) to Three Hundred Dollars ($300.00), and to Increase the Maximum Fine for the Same Violation from One Hundred Dollars ($100.00) to Five Hundred Dollars ($500.00); and Providing a Saving Clause.	612
225		Sub. 312	An Act to Amend Chapter 10, Section 71-1001 Through Section 71-1008, Title 71, of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 42, Laws of 1953, as Amended by Section 1, Chapter 252, Laws of 1955, as Amended by Section 1, Chapter 204, Laws of 1953, as Amended by Section 2, Chapter 252, Laws of 1955, as Amended by Section 1, Chapter 248, Laws of 1959, as Amended by Section 2, Chapter 204, Laws of 1953, and as Amended by Section 3, Chapter 252, Laws of 1955, Providing for the Transfer of the General Supervision and Total Administration of This Chapter from the State Department of Public Welfare to the Industrial Accident Board of the State of Montana; Amending Section 71-1001 of the Revised Codes of Montana, 1947, by Deleting References to the State Department of Public Welfare and Referring Instead to the Industrial Accident Board; Amending Section 71-1002 of the Revised Codes of Montana, 1947, by Deleting References to the County Departments of Public Welfare and the State Department of Public Welfare and Referring Instead to the Industrial Accident Board; Amending Section 71-1003 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 42, Laws of 1953, and as Amended by Section 1, Chapter 252, Laws of 1955, by Having the Amount of Payment Conform to the Amount of Payment Established by the Legislative Assembly of 1959; Amending Section 71-1004 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 204, Laws of 1953, as Amended by Section 2, Chapter 252, Laws of 1955, and as Amended by Section 1, Chapter 248, Laws of 1959, by Deleting References to the County Departments of Public Welfare and the State Department of Public Welfare and Referring Instead to the Industrial Accident Board; Amending Section 71-1005 of the Revised Codes of Montana, 1947, by Deleting References to the County Departments of Public Welfare and to the State Department of Public Welfare, and Referring Instead to the Industrial Accident Board; Amending Section 71-1006 of the Revised Codes of Montana, 1947, by Deleting References to the County Departments of Public Welfare and to the State Department of Public Welfare, and Referring Instead to the Industrial Accident Board; Amending Section 71-1007 of the Revised Codes of Montana, 1947, by Deleting References to the County Departments of Public Welfare and the State Department of Public Welfare and Referring Instead to the	

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226		361	An Act Authorizing and Empowering the State Board of Examiners of the State of Montana to Sell and Convey Certain Lands Situate in Powell County, Montana, Described as the "Valiton Ranch," Said "Valiton Ranch" Being More Particularly Described in Instruments Recorded in Book 22, Deed Records of Powell County, Montana, at Pages 42, 44, and 168; to the Best Interests of the State of Montana; Providing for Appraisal of Said Land; Providing for Notice of Sale; Providing Costs of Sale and Expenses Incidental Thereto to Be Paid Out of the Proceeds of the Sale; and Providing the Net Proceeds of the Sale to Go to the General Fund; Providing for an Effective Date and Repealing All Acts and Parts of Acts in Conflict Herewith.	622
227	66		An Act to Provide That Unreasonable Delay in Making Payment of the Full Amount of an Order, Decision or Award of the Industrial Accident Board May Result in a Ten Percent (10%) Increase in Compensation Due an Injured Working Man; and Providing an Effective Date.	624
228	89		An Act to Amend Section 75-1630, Revised Codes of Montana, 1947, Relating to Elementary School Attendance Outside the District of Residence; Providing for Authorization of Such Attendance; Providing for Determination of Residence; Providing for Payment of Tuition; Containing a Repealing Clause; and Fixing an Effective Date.	625
229	90		An Act to Amend Section 93-321, Revised Codes of Montana, 1947, Relating to Departments of District Courts in Districts Having More Than One (1) Judge, by Requiring That Each Judge Shall Be Assigned to a Numbered Department; to Amend Section 23-2001 of the Revised Codes of Montana, 1947, Relating to Nomination and Election of District Court and Supreme Court Judges; Providing That Each Office for Associate Justice of the Supreme Court is a Separate and Independent Office for Election Purposes; Providing That Each Department of the District Court in Districts Which Have More Than One (1) Judge Is a Separate and Independent Office for Election Purposes; to Amend Section 23-2003, Revised Codes of Montana, 1947, Relating to Nomination and Election of Associate Justices of the Supreme Court and Judges, by Requiring Candidates for Nomination to the Office of Associate Justice of the Supreme Court to Designate in Their Petition for Nomination the Number of the Associate Justice Whose Office They Are Seeking; and Requiring Candidates for Judge in Districts Having More Than One (1) Judge to Specify the Numbered Department to Which They Seek Nomination and Election and Limiting Their Candidacy to the Numbered Department so Specified; to amend Section 23-2005, Revised Codes of Montana, 1947, Relating to Arrangement and Certification of Names of Judicial Candidates; and Repealing All Acts or Parts of Acts in Conflict Herewith.	628
230	93		An Act to Amend Section 75-3612, of the Revised Codes of Montana of 1947, as Amended by Chapter 241, Laws of 1955, Chapter 251, Laws of 1957, and Chapter 267, Laws of 1959, Providing That If a High School Having an ANB of Twenty-four (24) or Less for Three (3) Consecutive Years Is Not Approved as an Isolated High School, Then It Shall Receive no State Equalization Aid, and Amending Section 75-3617 of the Revised Codes of Montana of 1947, and Providing That Approval of Isolated Elementary Schools and High Schools Shall Be Determined Subject to Approval by the State Superintendent of Public Instruction, and Containing a Repealing Clause.	632
231	136		An Act to Amend Chapter 17, of the Session Laws of	

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232		37	An Act Authorizing the Regents of the University of Montana to Construct, Finance and Control Student Housing Facilities at Units of the University of Montana and Repealing Sections 75-201, 75-202, 75-203, 75-204, 75-205 and 75-206, Revised Codes of Montana, 1947.	637
233		116	An Act to Amend Section 43-103, Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 191, Laws of Montana, 1951, and to Amend Section 43-104, Revised Codes of Montana, 1947, as Amended by Section 2 of Chapter 191, Laws of Montana, 1951, for the Purpose of Apportioning the Membership of the House of Representatives in the Legislative Assembly in Accordance With the Federal Census Enumeration of the Inhabitants of the Several Counties of Montana Taken in 1960.	639
234		Sen. Sub. for Sub. 134	An Act to Amend Section 93-9909 of the Revised Codes of Montana, 1947, as Last Amended by Section 9, Chapter 259, Laws of 1955, Relating to Summons in Condemnation Proceedings by Providing that Such Summons Must Be Served Upon Each Defendant at Least Twenty (20) Days Prior to Hearing on Order to Show Cause and Providing That a Copy of the Complaint Shall Be Served on Each Defendant Named; to Amend Section 93-9910 of the Revised Codes of Montana, 1947, Relating to Defendants in Condemnation Proceedings by Providing That an Answer Shall Be Served Upon the Plaintiff by Each Appearing Defendant and That Such Answer Shall Contain a Specific Allegation by Such Defendant as to the Amount Claimed by Such Defendant as Reasonable and Just Compensation for the Taking of His Lands; Amending Section 93-9911 of the Revised Codes of Montana, 1947, as Last Amended by Section 10, Chapter 259, Laws of 1955, Relating to the Powers of Courts and Judges in Condemnation Proceedings; Providing for a Preliminary Condemnation Order; and Eliminating Therefrom Reference to Appointment of Commissioners; Amending Section 93-9912 of the Revised Codes of Montana, 1947, Relating to Meeting of Commissioners by Providing for Qualifications, Appointment, and Proceedings Therefor, and by Amending Provisions Relating to Measurement of Award by Deleting References to Damages and Substituting Therefor the Term "Depreciation"; and by Deleting Provisions Relating to Compensation for Removal of Personal Property; Amending Section 93-9913 of the Revised Codes of Montana, 1947, as Last Amended by Section 1, Chapter 133, Laws of 1957, by Deleting Reference to "Damages", and Providing for Interest to Be Paid If Plaintiff Let Into Possession of Property; Amending Section 93-9914 of the Revised Codes of Montana, 1947, Providing for Report of Condemnation Commissioners and Providing That Their Report Shall Be Filed Within Ten (10) Days After Hearing and Providing That Two of Three Commissioners May Decide Award; Amending Section 93-9915 of the Revised Codes of Montana, 1947, by Deleting Therefrom Reference to Damages; Amending Section 93-9920 of the Revised Codes of Montana, 1947, by Providing That Plaintiff in Condemnation Proceedings Can Be Let Into Possession of Property by Depositing Amount Claimed by Landowner, Providing for a Bond to Be Posted for Return of Excess Moneys by Landowner Where Deposit Amounts Are Withdrawn Prior to Final Award; Repealing All Acts or Parts of Acts in Conflict Herewith.	641
235		348	An Act to Amend Section 84-1504, Revised Codes of Montana, 1947, to Provide a Definition of Gross Income in the Computation of Corporation License Tax; and Containing an Effective Date.	651
236	59		An Act to Amend Section 53-434, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 106, Laws of 1957; Relating to Proof of Financial Responsibility Required Upon Certain Convictions; Deleting Requirement of Proof of Financial Responsibility Under Circumstances	

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237	Hse. Sub. for 78		An Act Relating to and Providing for the Appropriation and Regulation of Ground Water; Defining Terms Used in the Act; Providing for the Appropriation of Ground Water; Providing for the Filing of Claims of Vested Ground Water Rights With the State Administrator and County Clerk and Recorder; Providing for the Filing of Notices of Appropriation of Ground Water After the Effective Date of the Act With the State Engineer and County Clerk and Recorder; Providing for Prior Rights; Providing for the Designating and Modifying of Boundaries of Ground Water Areas and Sub-areas by State Administrator; Authorizing State Administrator to Make Surveys, Investigations and Studies of Ground Waters; Providing for the Limiting of Withdrawals from Ground Water Areas or Sub-areas by the Supervisor; Providing for Change of Location of Ground Water Wells and Other Works; Providing for Abandonment of Ground Water Rights; Providing Against Waste of Ground Waters and Providing for the Regulation of Wells to Prevent Waste; Providing for a Hearing Before the District Court to Confirm the Orders of the State Administrator; Providing for Appeals; Authorizing County Attorneys to Perform Certain Services; Authorizing State Administrator to Administer Oaths and to Prescribe Reasonable Rules and Regulations; Providing for Fees; Providing Penalties for Violations of the Act; and Repealing Sections 89-2901 to 89-2910, Inclusive, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict With the Provisions of This Act; Providing for a Saving Clause; and Providing for an Effective Date.	654
238	Sub. 84		An Act Relating to Ambulance Service in Counties, Cities and Towns; Permitting a County, City or Town, Acting Alone or With Another County, City or Town to Establish and Maintain Such Ambulance Service Upon Receipt of a Petition Signed by Fifty Per Centum (50%) of the Taxpayers Listed on the Last-Completed Assessment Roll; Authorizing the County, City and Town to Contract for Facilities and Equipment and Operators or Attendants, to Adopt Rules and Establish Fees; and Providing for a Retention of Existing Service.	670
239	137		An Act Relating to Classification of Property for Taxation to Provide for the Encouragement of New Industry in the State of Montana by Establishing a Separate Classification for New Industrial Property During the First Three (3) Years of Operation; Amending Section 84-301, Revised Codes of Montana, 1947, as Last Amended by Chapter 88, of the Laws of Montana, 1957, to Provide a Classification for New Industrial Property; Amending Section 84-302, Revised Codes of Montana, 1947, to Provide a Basis for Imposition of Taxes on New Industrial Property; Repealing All Acts and Parts of Acts in Conflict Herewith; Containing a Severability Clause.	671
240	181		An Act Relating to the Right of Eminent Domain; Providing That Whenever the Right of Eminent Domain Is Exercised to Acquire Interests in the Surface of Property to Mine and Extract Ores, Metals or Minerals Located Beneath or Upon the Surface of Property, the Decree Shall Be Granted Only on Condition That the Plaintiff Agree to Purchase Property Located Within a Distance of Three Hundred (300) Feet; Providing for the Filing of a Plat or Plats; and Providing an Effective Date.	674
241		118	An Act to Amend Section 46-2305 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 13, Session Laws of 1949; Section 1, Chapter 124, Session Laws of 1953; Section 2, Chapter 257, Session Laws of 1955, Relating to the Compensation of the Secretary of the Grass Conservation Commission; Section 46-2331 of the Revised Codes of Montana, 1947, Relating to the Fee Imposed by the Commission Against the Districts; Containing a Repealing Clause.	676
242		341	An Act to Amend Section 75-3413, Revised Codes of Montana, 1947, Relating to School Transportation; Providing for Reimbursement to School Districts and County High Schools from the State Public School Equalization Fund; and Containing a Repealing Clause.	677
243		Sub 401	An Act to Amend Section 32-1123, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 250 of the	

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244		Sub. 435	An Act to Amend Sections 66-801, 66-802, 66-803, 66-804 and 66-806, Revised Codes of Montana, 1947, as Amended All Relating to Regulation of Cosmetology; Requiring One (1) Year of Practice or Teaching Before Obtaining a Manager-Operator License; Exempting from the Definition of Cosmetology, Artists Who Demonstrate for the Benefit and Instruction of Cosmeticians; Providing That the Applicants Shall Have Studied at Registered Beauty Schools, Instead of Accredited Schools; Providing That Northern Montana College Graduates in Cosmetology Are Qualified to Take the Licensing Examination; Deleting Provision for Apprenticeship Licenses; Requiring a Bond from School Operators; Forbidding Shops and Schools to Be Operated Together; Providing for Change in the Name of the State Board and for Additional Requirements for Members of the State Board; Providing Additional Requirements Relative to the Establishment of Minimum Prices; Forbidding the Advertisement or Sale of a Service Below the Minimum Price.	688
245		469	An Act to Provide for a Fund for the Support of the School Districts and County High Schools of the State, to Be Designated the Public School Classroom Unit Assistance Fund; Providing for the Distribution of Moneys Appropriated to Said Fund on the Basis of Classroom Units, and Defining the Same; Providing the Manner of Distribution and the Use of Such Funds; and Providing That the Act Shall Be in Force and Effect During the Period from July 1, 1961, to June 30, 1963, Inclusive.	695
246	94		An Act to Amend Section 75-4516.1, of Replacement Volume 4, Revised Codes of Montana, 1947, as Amended by Section 4, Chapter 208, Session Laws of Montana, 1951, and as Further Amended by Section 1, Chapter 202, Session Laws of Montana, 1953, Relating to Levy of Taxes for High School District Budgets and Removing Restrictions on the Budgeting Power of School Trustees When Federal Funds Are Applied to Financing the Permissive Area Above the Foundation Program, Providing for an Effective Date and Containing a Repealing Clause.	697
247	95		An Act to Amend Section 75-1723, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 247, Session Laws of Montana, 1953, Relating to Fixing of Tax Levy for Elementary School District Budgets, and Removing Restrictions on the Budgeting Power of School Trustees When Federal Funds Are Applied to Financing the Permissive Thirty Percent (30%) Limit Area Above the Foundation Program, Providing for an Effective Date, and Containing a Repealing Clause.	699
248	103		An Act Relating to the Manner of Determining Inherit-	

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			ance Taxes on the Transfer by Deed Between Husband to Wife and Wife to Husband Conveying Real Property Within Three (3) Years of Date of Death or at or After Death; Establishing a Procedure Therefor; Imposing Certain Duties on County Clerk and Recorders, County Assessors and the State Board of Equalization; Providing That the Provisions of This Act Be Governed by Section 91-4416, Revised Codes of Montana, 1947, and Establishing a Valuation Limitation.	701
249		342	An Act to Amend Section 31-135, Revised Codes of Montana, 1947, Relating to Issuance of Driver's Licenses; to Provide That Driver's Licenses Shall Contain a Photograph of the Operator or Chauffeur in Such Form and Size as the Montana Highway Patrol Board Shall Prescribe; to Provide for an Increase in the License Fee from Three Dollars ($3.00) to Four Dollars ($4.00); Repealing All Acts and Parts of Acts in Conflict Herewith.	703
250	207		An Act to Increase by Three Per Cent (3%), for the Two-Year Period Beginning July 1, 1961 and Ending June 30, 1963, the Foundation Program Schedules Provided in Section 75-3612, Revised Codes of Montana, 1947, as Amended by Chapter 267, Laws of 1959.	705
251	20		An Act Relating to Securities and Creating the Office of Investment Commissioner; Providing for the Administration of the Act and Prescribing Certain Powers and Duties in Connection Therewith; Providing for the Registration of Securities; Providing for the Registration of Broker-Dealers, Salesmen, and Investment Advisers; Exempting Certain Securities and Security Transactions from the Provisions of the Act; Providing for Consent to Service of Process; Providing for Registration Fees Under the Act; Providing for Investigations; Providing for Judicial Review of Orders; Defining Terms; Providing Penalties; Providing Effective Date of Act; Repealing Section 66-2001; Section 66-2002, as Amended by Section 1, Chapter 178, Laws of Montana, 1957; Section 66-2003, as Amended by Section 2, Chapter 178, Laws of Montana, 1957; Sections 66-2004 Through 66-2006; Section 66-2007, as Amended by Section 3, Chapter 178, Laws of Montana, 1957; Sections 66-2008 Through 66-2017; Section 66-2018, as Amended by Section 4, Chapter 178, Laws of Montana, 1957; Sections 66-2019 Through 66-2022; Section 66-2023, as Amended by Section 5, Chapter 178, Laws of Montana, 1957; Section 66-2024, as Amended by Section 6, Chapter 178, Laws of Montana, 1957; Sections 66-2025 and 66-2026, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith.	705

APPROPRIATIONS

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1	An Act to Appropriate Money for the Legislative Assembly and for the Payment of Per Diem to the Officers and Attaches and for Incidental Expenses of the Thirty-seventh Legislative Assembly of the State of Montana.	743
26	An act to Appropriate Eighty Thousand Dollars ($80,000) for the Operation and Expenses of the Legislative Council for the Period Beginning July 1, 1961 and Ending June 30, 1963.	744
188	An Act to Appropriate Money to the Board of Examiners for the Payment of Certain Contract Obligations at the Montana State Prison, Said Lands Under Contract Known as Deer Lodge Valley Farms, Payment of Lease on Certain State and Forest Lands, Payment of Taxes on Lands Under Purchase Contract and to Pay Interest on Unpaid Balance; and Providing for an Effective Date.	744
Sub. 205	An Act to Appropriate Money for the Payment of Certain Deficiency Claims Arising from Obligations Incurred by the State Board of Equalization for Refunds on Overpayment of Inheritance Tax, Refunds of Corporation License Tax and for Refunds of Cigarette Tax; for the Prosecution of a Lawsuit; for Amounts Due on Oil and Gas Penalties; and for Employers' Contribution to the Public Employees' Retirement System; and Providing for an Effective Date.	745
371	An Act to Appropriate Money for Payment of the Share of This State of	

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House Bill	Title	Page
	the Expenses of the National Conference of Commissioners on Uniform State Laws, and for Travel Expenses of the Commissioners on Uniform State Laws, for the Period Beginning July 1, 1961 and Ending June 30, 1963.	747
374	An Act to Appropriate Money for the State Public School Equalization Fund and Providing for the Manner of Distribution Thereof for the Period Beginning July 1, 1961, and Ending June 30, 1963; and Providing That the Appropriations Herein Shall Be Valid Notwithstanding the Provisions of the Budget Act.	748
438	An Act to Appropriate Money for the Purchase of Cumulative Pocket Supplements of 1961, for the Revised Codes of Montana, 1947; and Providing for an Effective Date.	750
439	An Act to Appropriate Money for the Purchase of Replacement Volume Four of the Revised Codes of Montana of 1947; and Providing an Effective Date.	750
440	An Act to Appropriate Money for the Purpose of Paying Certain Expenses for Northern Montana College and to Transfer Monies from One Account to Another Within the Present Appropriations of Montana State College, the Agricultural Experiment Station and Substations, the Agricultural Extension Service, Eastern Montana College of Education, Northern Montana College, and Montana State University for the Current Biennium Ending June 30, 1961; and Providing for an Effective Date.	751
444	An Act to Transfer Moneys from One Account to Another Within the Present Appropriations of the Board of Railroad Commissioners, the Department of Agriculture, State Tuberculosis Sanatorium, State Treasurer, State Hospital, Attorney General, Supreme Court, Department of State Lands and Investments and the Secretary of State and to Appropriate Money from the General Fund for the Purpose of Paying Certain Expenses for the Secretary of State, the State PBX Division, District Judges, County Attorneys, the State Board of Examiners and the State Forester for the Current Biennium Ending June 30, 1961; and Providing an Effecive Date.	754
446	An Act to Transfer Monies from One Account to Another Within the Present Appropriations of the State Industrial School, the Montana Children's Center and the Vocational School for Girls; to Transfer Monies from the Present Appropriation of the State Industrial School to the Montana Children's Center; and to Appropriate Money for the Purpose of Paying Certain Expenses of the Montana Children's Center for the Current Biennium Ending June 30, 1961; and Providing an Effective Date.	756
448	An Act to Appropriate Money for the Purpose of Paying Additional Incidental Expenses of the Thirty-seventh Legislative Assembly; Providing That the Appropriations Herein Shall Be Valid Notwithstanding the Provisions of the Budget Act and Providing an Effective Date.	757
450	An Act to Appropriate Money for the State Department of Public Welfare of the State of Montana for Public Assistance, for Administrative Costs in the State Department and in the County Departments of Public Welfare and for All Other Expenditures Coming Under the State Department of Public Welfare Which They May Lawfully Incur, for the Period Beginning With July 1, 1961 and Terminating With June 30, 1963.	758
454	An Act to Appropriate Money for the Operation and Maintenance of Certain State Agencies for the Period Beginning July 1, 1961 and Ending June 30, 1963.	761
456	An Act to Appropriate Money for the Operation and Maintenance of Certain State Institutions for the Period Beginning July 1, 1961 and Ending June 30, 1963.	770
Sub. 457	An Act to Appropriate Money for the Operation and Maintenance of Certain State Agencies for the Period Beginning July 1, 1961 and Ending June 30, 1963.	777
458	An Act to Appropriate Money for the Operation and Maintenance and for Other Purposes Designated Herein for the Several Units of the University of Montana, Known as Montana State University, Montana State College, Experiment Station and Sub-stations, Extension Service, Montana School of Mines, Western Montana College of Education at Dillon, Eastern Montana College of Education at Billings, and Northern Montana College at Havre, the Office of the Executive Secretary, and for Student Fare Refunds for the Period Beginning July 1, 1961, and Ending June 30, 1963.	790
459	An Act to Appropriate Money for the Operation and Maintenance of the State Water Conservation Board, the State Planning Board and the Fish and Game Commission for the Period Beginning July 1, 1961 and Ending June 30, 1963.	801
460	An Act to Appropriate Money for the Payment of Insurance Premiums for Insurance on State Property Out of Certain Funds Designated Herein for the Period Beginning July 1, 1961, and Ending June 30, 1963.	803

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461	An Act to Appropriate Money for the Operation and Maintenance of Certain State Agencies for the Period Beginning July 1, 1961 and Ending June 30, 1963.	805
463	An Act to Appropriate Money for the Operation and Maintenance of Certain Regulatory Boards and Commissions for the Period Beginning July 1, 1961 and Ending June 30, 1963.	819
464	An Act to Appropriate Money to the State Prison for the Completion of Rothe Hall and Erection of a Security Fence.	821
465	An Act to Appropriate by Means of the Issuance and Sale by the State Board of Examiners of Bonds in Addition to Bonds Already Authorized to Be Issued and Sold for the Purposes of Repairing of Furniture in the House and Senate Chambers, and Lobbies and Halls Adjacent Thereto; Repairing and Remodeling of Six (6) Committee Rooms of the House of Representatives of the State of Montana; and Repairing and Painting of the Offices of the Montana Railroad and Public Service Commission in the State Capitol Building; Designating the Monies from Which Said Bonds Should Be Paid; Enumerating the Powers and Duties of the State Board of Examiners in Carrying Out the Provisions of This Act; Providing That the Appropriation Herein Provided for Shall Be Valid Notwithstanding the Provisions of the Budget Act; and Providing for an Effective Date.	822
466	An Act to Appropriate Money for Participation by the State Board of Education, Ex Officio Regents, University of Montana in the National Defense Student Loan Program.	825
468	An Act to Appropriate Money to the State Board of Equalization from the Gasoline Drawback Fund and the Income Tax Withholding Fund.	825
470	An Act to Appropriate Money for the Public School Classroom Unit Assistance Fund for Distribution as Provided by Law During the Period Beginning July 1, 1961, and Ending June 30, 1963; Providing That If This Act Is Finally Held Invalid, any Moneys Remaining in Such Fund Shall Be Transferred to the State Public School Equalization Fund; and Providing That the Appropriations Herein Shall Be Valid, Notwithstanding the Provisions of the Budget Act.	826

MEMORIALS AND RESOLUTIONS

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House Joint Memorial No. 3	A Joint Memorial by the House of Representatives and the Senate of the Thirty-seventh Legislative Assembly of the State of Montana to the Governor of the State of Montana and to the Heads of All Departments of the State Government of the State of Montana Relating to a Good Business Climate in the State of Montana.	827
House Joint Memorial No. 6	A Joint Memorial of the House of Representatives and the Senate of the State of Montana to the Congress of the United States, to the Honorable Mike Mansfield and Lee Metcalf, United States Senators of Montana, and to the Honorable James F. Battin and Arnold H. Olsen, Representatives in Congress from Montana, and to the Secretary of Agriculture of the United States, Requesting Extension of the Sugar Act of 1948, as Amended.	829
Substitute House Joint Memorial No. 9	A Joint Memorial of the House of Representatives and the Senate of the State of Montana, to the President of the United States and the Congress of the United States and to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana, and the Honorable Arnold H. Olsen and the Honorable James Battin, Congressmen from the State of Montana, Relating to the Retention of the Connally Reservation and That No Law Shall Be Passed That Will Affect the Right of Self-Determination by the United States.	830
House Joint Memorial No. 12	A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana; to the Honorable James Battin and the Honorable Arnold H. Olsen, Representatives from the State of Montana; to the Secretary of the Interior; to the Chairmen of the Appropriations Committees of the United States Senate and House of Representatives; to the Senate and House of Representatives of the United States in Congress Assembled, to the United States Army Corps of Engineers and to the Federal Power Commission, Providing That the Application for	

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	License to Construct These Projects Is Consistent With the Orderly, integrated and Comprehensive Development of the Columbia River Basin as Recommended Under Provisions of the Corps of Engineers' "308" Report; and Providing That an Acceptable Agreement Is Consummated With the Kootenai, Salish and Flathead Indian Tribes for the Use of Said Sites, Otherwise This Memorial Shall Be of No Force and Effect; Urging That the Federal Power Commission Grant the Application of a Taxpaying Enterprise to Construct, Own and Operate the Dams and Hydroelectric Facilities at Buffalo Rapids Sites Nos. 2 and 4 in Lake County and Sanders County, Montana.	830
House Joint Memorial No. 14	A Joint Memorial of the House of Representatives and Senate of the State of Montana to the Congress of the United States; the Honorable Mike Mansfield and Honorable Lee Metcalf, Senators from the State of Montana; the Honorable Arnold Olsen and the Honorable James Battin, Representatives from the State of Montana; and the Committee on Interior Affairs and the Judiciary Committee of the United States Senate and House of Representatives Urging the Adoption of Legislation Vesting in the Local United States District Court Jurisdiction to Review Final Adminstrative Action Relating to Determinations Respecting Grazing Privileges, Permits or Licenses on Any Part of the Public Domain of the United States, Excepting Those Lands Administered by the Forest Service in the Department of Agriculture of the United States.	832
House Joint Memorial No. 15	A Joint Memorial to United States Secretary of Agriculture, the Honorable Mike Mansfield and Lee Metcalf, Senators from the State of Montana, and the Honorable Arnold Olsen and James Battin, Congressmen from the State of Montana, Requesting Congress to Amend the Necessary Federal Statutes to Provide That State Correctional Institutions for Adults Are Eligible to Receive Federal Donations of Non-luxury Type Surplus Foods.	834
House Joint Memorial No. 18	A Joint Memorial of the House of Representatives and the Senate of the State of Montana to the Congress of the United States, to the Honorable Mike Mansfield, and the Honorable Lee Metcalf, Senators from the State of Montana, the Honorable Arnold Olsen and the Honorable James F. Battin, Representatives in Congress from the State of Montana, and to the Honorable Olin Teague, Chairman, Veteran Affairs Committee of the U. S. House of Representatives; Urging That the Congress of the United States Enact Legislation Granting Pensions to World War I Veterans as Heretofore Done for the Spanish-American Veterans and Veterans of Other Prior Wars of the United States.	834
House Joint Resolution No. 1	A Joint Resolution of the Senate and House of Representatives Requesting the Legislative Council to Study State Fiscal Procedures, the Earmarking of Revenue, the Fund Structure and the System of Accounts of the State of Montana and to Report Its Recommendations to the Thirty-eighth Legislative Assembly	836
House Joint Resolution No. 5	A Joint Resolution of the Senate and House of Representatives Directing the Montana Highway Department to Mark Approaches to Older, Narrow Bridges With Larger, More Conspicuous Signs and to Replace Old Bridges with Wider, Safer Bridges When Reasonably Possible.	837
House Joint Resolution No. 6	A Joint Resolution of the Senate and House of Representatives of the State of Montana, Ratifying the Proposed Amendment to the Constitution of the United States Relating to the Creating of Representation in the Electoral College for the District of Columbia.	837
House Joint Resolution No. 8	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Legislative Council to Develop a General Plan for the Reorganization of State Government for Future Guidance Including Necessary Amendments to the Constitution, to Make Specific Recommendations for the Consolidation and Elimination of State Agencies, to Appoint a Bipartisan Task Force to Assist in the Study and to Report Its Findings to the Thirty-eighth Legislative Assembly.	839
House Joint Resolution No. 12	A Joint Resolution of the House of Representatives of the State of Montana, the Senate Concurring, Declaring It to Be Against the Public Policy of the State of Montana, and an Unfair Employment Practice, to Arbitrarily Discriminate Against Well Qualified and Otherwise Desirable Individuals Between the Ages of Forty (40) and Sixty-five (65) Years, Solely Because of Their Age, and When Not Precluded by Variance of Insurance Coverages, the Retirement System of the Employer, or Other Reason Not a Subterfuge to Evade the Purposes Hereof.	840
Senate Joint Memorial No. 1	A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the United States, John	

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No.	Title	Page
	F. Kennedy; the Congress of the United States; Mike Mansfield and Lee Metcalf, Senators from the State of Montana; Arnold Olsen and James Battin, Representatives in Congress from the State of Montana; the Committee on Public Works of the United States House of Representatives; the Committee on Appropriations of the United States Senate; the Committee on Appropriations of the United States House of Representatives; the Secretary of the Army; the Chief of the Corps of Engineers, Department of the Army; and the Director of the Budget; Urging Ratification of International Joint Commission Agreement, Urging Construction of Libby Dam as Soon as Possible in Order to Protect the National Interest in Water and Water Resources Rising in the United States; and Requesting Sufficient Appropriations So That Detailed Planning and Design Work Can Begin Immediately; Providing for a Reservation of Power for Montana.	841
Senate Joint Memorial No. 2	A Joint Memorial of the Senate and House of Representatives of the Thirty-seventh Legislative Session of the State of Montana to the Honorable John F. Kennedy, President of the United States of America, to the Honorable J. Edward Day, Postmaster General of the United States of America, to United States Senators of Montana, the Honorable Michael J. Mansfield and the Honorable Lee Metcalf, to the Congressmen of Montana, the Honorable Arnold H. Olsen and the Honorable James Battin, to the Interstate Commerce Commission, and the United States Civil Aeronautics Board; Requesting the Maintenance of Railway Service for First-Class Mail and Air Mail Service at Air Mail Rates as the Most Efficient and Satisfactory Combination for the State of Montana, and Requesting Opposition to Legislation Diverting First-Class Mail from Railway Service at the Expense of Taxpayers.	845
Senate Joint Memorial No. 4	A Joint Memorial of the Senate and House of Representatives of the State of Montana to United States Senators Mike J. Mansfield and Lee Metcalf and to United States Representatives Arnold H. Olsen and James F. Battin, Members of the Montana Congressional Delegation, Urging the President, the Senate Committee on Finance and House Committee on Ways and Means to Direct the United States Tariff Commission to Review and Re-evaluate Import Quotas and Import Duties on Meats and Meat Products to the End That Friendly Relations With Other Countries Be Maintained Without Damaging the Domestic Livestock-Producing Industry of the United States.	847
Senate Joint Resolution No. 4	A Joint Resolution of the Senate and House of Representatives of the Thirty-seventh Legislative Assembly of the State of Montana, Amending Joint Rules 11, 13 and 14.	849
Senate Joint Resolution No. 9	A Joint Resolution of the Senate and the House of Representatives of the Thirty-seventh Legislative Assembly of the State of Montana, Requesting and Directing the State Board of Equalization of the State of Montana to Be Prepared With Proper Supplies and Wiring Panels for Its Electronic Business Machines to Submit Each Day to the Thirty-eighth Legislative Assembly of the State of Montana During the Period of Introduction of Bills of Said Assembly a Continuing Cumulative Master Sheet Stencil, Listing Upon Introduction, by Number, Each Senate and House Bill That Proposes Amendments to, and Repeals of, Existing Statutes and Session Laws, and Indicating in Numerical Order Opposite Each Such Listed Bill the Pertaining Section or Sections of the Revised Codes of Montana, 1947, and All Amendments and Repeals Thereto; Directing the Secretary of the Senate to Transmit a Copy of This Resolution to the Appointed Members of the Montana State Board of Equalization Prior to the Adjournment Sine Die of the Thirty-seventh Legislative Assembly.	851

CONSTITUTIONAL AMENDMENTS

and

REFERENDUM MEASURES

See appendix.

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SESSION LAWS

CHAPTER 1

An Act to Fix the Compensation of Officers and Employees of the Thirty-seventh Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Emergency declared.

Section 1. WHEREAS existing wage scales in effect at this time present an emergency requiring that the compensation of officers and employees of the thirty-seventh legislative assembly shall be paid a higher rate than that heretofore required, or which in all probability will be hereafter required, and notwithstanding the general law fixing the compensation of officers and employees of the legislative assemblies, and expressly without amending any such law or laws except to the extent that they shall not apply to the compensation of officers and employees of the thirty-seventh legislative assembly;

Increased compensation legislative officers and employees.

Compensation shall be paid to the officers and employees of the thirty-seventh legislative assembly as follows:

The Secretary of the Senate, the Chief Clerk of the House of Representatives, the Sergeant-at-Arms of each house eighteen dollars ($18.00) per day. The Senate Law Clerks and House of Representatives Law Clerks eighteen dollars ($18.00) per day;

The assistant secretary of the Senate, the assistant chief clerk of the House of Representatives; the journal clerk, the enrolling clerk, engrossing clerk, the bill clerk, the chief printing clerk of each house; the assistant sergeant-at-arms of the Senate, the assistant sergeants-at-arms of the House of Representatives (in case such assistants are employed), the clerk of the Judiciary Committee, the clerk to the finance and claims committee of the Senate, the secretary to the judiciary committee, the secretary to the appropriations committee of the House, the Clerk to the Chief Clerk of the House, the stenographer to the secretary of the Senate, the chief stenographer of both houses, the secretary to the Speaker of the House of Representatives, the secretary to the President of the Senate, the secretaries to the majority and minority floor leaders of

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both Houses, the secretary to the sergeant-at-arms of each house, and the mimeograph clerk, fifteen dollars ($15.00) per day each.

The assistant journal clerk, the assistant bill clerk, the assistant enrolling clerk, the assistant engrossing clerk, the assistant printing clerk, the reading clerk, two chief proof readers of both houses; the payroll clerk of the House of Representatives, the supply clerk of the House of Representatives, stenographers, and the mailing clerk and filing clerk of each house, twelve dollars ($12.00) per day each.

Other committee clerks, typists, other proof readers, and telephone operators, elevator operators of each house, eleven dollars ($11.00) per day each.

The Chaplain, door-keepers, janitors, assistant janitors, and watchman of each house, ten dollars ($10.00) per day each.

Pages, seven dollars ($7.00) per day each.

And all other employees of the legislative assembly not herein specifically enumerated, ten dollars ($10.00) per day each.

Each salary herein specified shall be paid for each and every day of the entire legislative session, commencing with the date of employment of the officer or employee, save and except that any officer or employee whose services are dispensed with for any portion of the session shall receive pay only for the number of days during which services are performed by such officer or employee.

Salaries increased for 37th Assembly only.

Section 2. The salaries herein specified to be paid to officers and employees shall be effective for and shall be paid only to such officers and employees of the thirty-seventh legislative assembly of the State of Montana and shall not be effective for nor payable to the officers and employees of any subsequent legislative assembly.

Effective immediately.

Section 3. This act shall take effect and be in full force from and after its passage and approval.

Approved January 6, 1961.

CHAPTER 2

An Act to Amend Section 59-510, Revised Codes of Mon-

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tana, 1947, to Provide That Salaried State Employees Shall Work a Minimum of Forty (40) Hours a Week.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 59-510, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"59-510. **Office hours.** Unless otherwise provided by law every officer must keep his office open for the transaction of business continuously from eight o'clock a.m. until five o'clock p.m. each day, except upon Saturdays and holidays. *All salaried state employees shall work a minimum of forty (40) hours a week.* Every officer shall keep his office open at such other times as the accommodation of the public or the proper transaction of business requires, excepting the state treasurer, who in his discretion may in the interest of the safekeeping of funds, securities and records under his control, close his office during the period from twelve o'clock noon to one o'clock p.m. every day." State office hours. Minimum 40-hour week for state employees.

Approved January 27, 1961.

CHAPTER 3

An Act to Amend Section 71-1003 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 192, Laws of 1949, as Amended by Section 1, Chapter 42, Laws of 1953, and as Amended by Section 1, Chapter 252, Laws of 1955, Relating to Eligibility Requirements for Aid to Persons Having Silicosis; to Amend Section 71-1008, Revised Codes of Montana, 1947, as Amended by Section 3, Chapter 192, Laws of 1949, as Amended by Section 2, Chapter 204, Laws of 1953, and As Amended by Section 3, Chapter 252, Laws of 1955, Relating to Conformity with Acts of the Federal Government, Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 71-1003 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 192, laws of 1949, as amended by section 1, chapter 42, laws of 1953, and as amended by section 1, chapter 252, laws of Amending clause.

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1955, be, and the same is hereby amended to read as follows:

Eligibility requirements.

"Section 71-1003. **Eligibility requirements for aid to persons having silicosis, as herein defined.** Payments shall be made under this act to any person who:

(a) Has silicosis, as defined in section 71-1001 of the Revised Codes of Montana of 1947, which results in his total disability so as to prevent him from engaging in a gainful occupation. The term 'gainful occupation' as used herein shall not be construed to mean occasional or intermittent light employment where the ability to do manual labor is not essential, but shall mean any person having an income from any other source exceeding one hundred fifty dollars ($150.00) per month.

"Gainful employment."

Limitation on income from other sources.

Residence.

(b) Has resided in and been an inhabitant of the State of Montana for ten (10) years, or more, immediately preceding the date of the application.

Not in penal or mental institution.

(c) Has silicosis and is entitled to payments under this act, but who is not at the time of receiving a payment an inmate of a penal institution, or is not a patient or inmate of any institution for the treatment of mental diseases, or is not a patient in a medical institution as a result of having been diagnosed as having a psychosis. If the person to whom payment has been ordered to be paid is an inmate of Montana state tuberculosis sanatorium, then and in that case the payment herein provided for shall be made to his wife and children, if any.

Limitation on payment if under workmen's compensation.

(d) Is not receiving, with respect to any month for which he would receive a payment under this act, compensation under the workmen's compensation act of the State of Montana, which will equal the sum of *seventy-five dollars ($75.00)* hereunder. If he is receiving payments under the workmen's compensation act which is less in the aggregate than *seventy-five dollars ($75.00)*, then he is entitled to a payment under this act of the difference between the amount received under the workmen's compensation act and *seventy-five dollars ($75.00)* per month."

Amending clause.

Section 2. That section 71-1008, Revised Codes of Montana, 1947, as amended by section 3, chapter 192, laws of 1949, as amended by section 2, chapter 204, laws of 1953, and as amended by section 3, chapter 252, laws of 1955, be, and the same is hereby amended to read as follows:

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"Section 71-1008. **Conformity with acts of federal government.** If and when the government of the United States makes grants to states in aid of and allowing payments to persons having silicosis, as herein defined, the public welfare department of the State of Montana is hereby authorized to administer in the State of Montana such grants in aid and payments in addition to grants made by this act. The total payments to any individual under this act shall not exceed *seventy-five dollars ($75.00)* per month exclusive of any grants made by Congress."

Maximum payment $75.00 per month exclusive of federal grant.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved January 27, 1961.

CHAPTER 4

An Act to Amend Section 71-604 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 81, Laws of 1949, as Amended by Section 3, Chapter 157, Laws of 1951, and as Amended by Section 27, Chapter 199, Laws of 1951, Relating to Eligibility for Aid to Needy Blind, Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 71-604 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 81, laws of 1949, as amended by section 3, chapter 157, laws of 1951, and as amended by section 27, chapter 199, laws of 1951, be, and the same is hereby amended to read as follows:

Amending clause.

"71-604. **Eligibility for aid to needy blind.** Aid shall be granted under this chapter to any person who:

Eligibility for aid to needy blind.

(a) Has no vision or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who has been examined and so certified by a fully licensed ophthalmologist *or by a fully licensed optometrist;*

Defective vision certified.

(b) Has income which is inadequate to provide a reasonable subsistence compatible with decency and health

Inadequate income.

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except that in determining need, the department may disregard earned income, as is provided in the federal social security act;

Not receiving other aid.

(c) Is not receiving old age assistance, aid to dependent children or aid to the permanently and totally disabled, for himself or herself;

Residence requirements.

(d) Has resided in the county in which application is made for at least one (1) year immediately preceding receipt of this assistance. Any person otherwise qualified who has resided in the state for five (5) years or more within the nine (9) years immediately preceding the application, one (1) year of which state residence shall have been immediately prior to the date of receipt of this assistance, and who has no legal county residence, shall file his application in the county in which he is residing, and his assistance shall be paid entirely from state funds until he can qualify as having a legal residence in the said county;

Not inmate or patient in public institution.

(e) Is not an inmate of any public institution except as a patient in a public medical institution; is not a patient in an institution for tuberculosis or mental diseases or is not a patient in a medical institution as a result of having been diagnosed as having tuberculosis or phychosis.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved January 27, 1961.

CHAPTER 5

An Act to Amend Section 71-405 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 155, Laws of 1949, as Amended by Section 18, Chapter 199, Laws of 1951, and as Amended by Section 3, Chapter 71, Laws of 1957, Relating to the County Share of Participation in Old Age Assistance Grants, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 71-405 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 155,

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laws of 1949, as amended by section 18, chapter 199, laws of 1951, and as amended by section 3, chapter 71, laws of 1957, be, and the same is hereby amended to read as follows:

"Section 71-405. **County share of participation.** Each county department shall reimburse the state department in the amount of one-third (⅓) of the approved old age assistance grants paid by the state department to persons in the county each month, exclusive of the federal share. Such reimbursements shall be credited to the old-age assistance account of the state department."

County share of participation—old-age assistance grants.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved January 27, 1961.

CHAPTER 6

An Act to Amend Section 71-1206, Enacted as Section 6, Chapter 160 of the Session Laws of the Thirty-Second Legislative Assembly of the State of Montana, 1951, as Amended by Section 10, Chapter 71, Laws of 1957, Relating to the County Share of Participation in Aid to the Permanently and Totally Disabled Grants, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 71-1206, enacted as section 6, Chapter 160 of the session laws of the thirty-second legislative assembly of the State of Montana, 1951, as amended by section 10, chapter 71, laws of 1957, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 71-1206. **County share of participation.** Each county department shall reimburse the state department in the amount of two-thirds (⅔) of the approved aid to the permanently and totally disabled grants paid by the state department to persons in the county each month, exclusive of the federal share. Such reimbursements shall be credited to the aid to the permanently and totally disabled account of the state department.

County share of participation—disabled grants.

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved January 27, 1961.

CHAPTER 7

An Act to Amend Section 71-508 of the Revised Codes of Montana, 1947, as Amended by Section 6, Chapter 71, Laws of 1957, Relating to the County Share of Participation in Aid to Dependent Children Grants, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 71-508 of the Revised Codes of Montana, 1947, as amended by section 6, chapter 71, laws of 1957, be, and the same is hereby amended to read as follows:

County share of participation—aid to dependent children.

"Section 71-508. **County share of participation.** Each county department shall reimburse the state department in the amount of one-third (⅓) of the approved aid to dependent children grants *paid by the state department* to persons in the county each month *exclusive of the federal share.* These reimbursements shall be credited to the aid to dependent children account of the state department."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved January 27, 1961.

CHAPTER 8

An Act to Amend Section 71-611 of the Revised Codes of Montana, 1947, as Amended by Section 2, Chapter 155, Laws of 1949, as Amended by Section 32, Chapter 199, Laws of 1951, as Amended by Section 8, Chapter 71, Laws of 1957, Relating to the County Share of Participation in Aid to Needy Blind Grants, and Repealing All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 71-611 of the Revised Codes of Montana, 1947, as amended by section 2, chapter 155, laws of 1949, as amended by section 32 of chapter 199, laws of 1951, and as amended by section 8, chapter 71, laws of 1957, be, and the same is hereby amended to read as follows:

County share of participation—aid to needy blind.

"Section 71-611. **County share of participation.** Each county department shall reimburse the state department in the amount of one-third (⅓) of the approved aid to needy blind grants paid by the state department to persons in the county each month, exclusive of the federal share. Such reimbursement shall be credited to the aid to needy blind account of the state department."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved January 27, 1961.

CHAPTER 9

An Act to Provide for Issuance of Travel Permit Certificate for Registered Purebred Show Cattle Being Transported for Show Purposes and Amending Section 46-801, Revised Codes of Montana, 1947, as Amended by Chapter 142, Laws of Montana, 1957.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 46-801, Revised Codes of Montana, 1947, as amended by chapter 142, laws of Montana, 1957, be, and the same is hereby amended to read as follows:

Brand inspection of livestock before removal from county.

"46-801. **Inspection of livestock before removal from county.** (1) Except as in this act otherwise provided, it shall be unlawful to remove or cause to be removed from any county in this state any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly, by means of any railroad car, motor vehicle, trailer, horsedrawn vehicle, boat or in any manner whatsoever unless such animal shall have been inspected for brands by a state stock inspector or deputy state stock inspector and certificate of such inspection shall have been issued in connection

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with and for the purpose of such transportation or removal as in this act provided. Such inspection must be made in daylight.

Brand inspection of livestock before sale.

"(2) It shall be unlawful to sell or offer for sale at a livestock market any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly originating within any county in the State of Montana in which a livestock market is maintained, or transported under a market consignment permit until such animal has been inspected for marks and brands by a state stock inspector, as in this act provided.

Brand inspection of livestock before removal from market.

"(3) It shall be unlawful to remove or cause to be removed any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly from the premises of any livestock market in this state unless such animal shall have been inspected for marks and brands by a state stock inspector and an inspection certificate for such animal shall have been issued in connection with and for the purpose of such removal from the premises of such livestock market, as in this act provided.

Duty to exhibit certificate of inspection or market permit.

"(4) The person in charge of any such cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly being removed from any county in this state, where inspection thereof is required by this act or when removed under a market consignment permit shall have in his possession the certificate of inspection or market consignment permit issued in connection therewith, and shall exhibit the same to any sheriff, deputy sheriff, constable, highway patrolman, state stock inspector or deputy state stock inspector at the request of either of them and the provisions of section 46-803 shall be extended to livestock transported under the above mentioned permits.

Endorsement of certificate for removal of horses from county by owner.

"(5) In case of saddle, work or show horse or horses being transported from county to county within the state by the owner thereof for his personal use or business and where there is no change of ownership, the inspection certificate as required by this act, may be endorsed as to purpose and extent of transportation by the inspector issuing same in order to serve as a travel permit within the state for a period not to exceed one year for the horse or horses described thereon. Such permit becomes void upon any transfer of ownership or if such horse or horses are to be removed from the state. In such instances an inspection

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must be secured for removal and the endorsed certificate surrendered."

Endorsement of certificate for removal of show cattle by owner.

In case of registered purebred cattle being transported from county to county within the state by the owner thereof for show purposes and where there is no change of ownership, the inspection certificate as required by this act, may be endorsed as to purpose and extent of transportation by the inspector issuing same in order to serve as a travel permit within the state for a period not to exceed one year for the cattle described thereon. Such permit becomes void upon any transfer of ownership or if such cattle are to be removed from the state. In such instances an inspection must be secured for removal and the endorsed certificate surrendered.

Exceptions.

"(6) The provisions of section 1 of this act (this section) shall not apply.

Livestock transported through state.

"(a) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly being transported through the state in interstate commerce without leaving the custody of the carrier;

Livestock reaching market where state inspector maintained.

"(b) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly transported by railroad consigned to and which, without leaving the custody of the carrier, does reach a market at which the livestock commission of the State of Montana regularly maintains a stock inspector, and for which animal a loading tally has been filed by the shipper with the carrier as provided in section 46-1008;

Livestock moved on hoof for pasturing in adjoining county.

"(c) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly when driven on the hoof and not moved by means of any motor vehicle, trailer, horse-drawn vehicle, railroad car or boat, by the owner from one (1) county to the next adjoining county within the State of Montana on to land owned or controlled by the owner of livestock so moved for the purpose of pasturing, feeding or changing the range thereof;

Livestock moved by owner for pasturing.

"(d) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly when driven on the hoof or moved by means of any motor vehicle, trailer, horse-drawn vehicle, railroad car or boat, by the owner from one (1) county to the next adjoining county within the State of Montana on to land owned or controlled by

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the owner of livestock without leaving land owned or controlled by such owner when moved for the purpose of pasturing, feeding, or changing the range thereof;

Livestock moved on hoof for shipment to market.

"(e) to any animal or animals when driven on the hoof from one (1) county to an adjoining county within the state for the purpose of shipment by railroad or delivery to a licensed public market by any person who has been the owner of said animal or animals for a period of at least three (3) months;

Livestock reaching licensed market under permit.

"(f) to any such animal or animals from one (1) county to be consigned to, and which actually reach by means other than railroad a licensed livestock market located in another county of the state at which the livestock commission of the State of Montana regularly maintains a stock inspector, and for which a market consignment permit has been obtained in a manner provided by law.

Livestock hauled to shipping point under transportation permit.

"(g) to any such animal or animals when hauled by truck or trailer from one county to an adjoining county within the state for the purpose of shipment by railroad at which shipping point the livestock commission of the State of Montana maintains a stock inspector or where a deputy state stock inspector is available, and for which a transportation permit has been obtained in the manner provided by law."

Approved February 1, 1961.

CHAPTER 10

An Act to Authorize, in Certain Instances, the Boards of County Commissioners to Levy an Additional Tax of Not to Exceed Eight (8) Mills for the County Poor Funds, Providing for an Effective Date and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Authority of county commissioners to levy for county poor fund—8-mill maximum.

Section 1. Whenever the boards of county commissioners of counties coming within the provisions of this act find that the total amount that may be derived from all other sources will be inadequate to provide the revenue necessary to meet the appropriations for expenditures to be set forth

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in the poor fund section of the county budget, such county commissioners shall have the power and the authority to levy, not to exceed eight (8) mills, or so much thereof as may be necessary, to meet such expenditures as an additional levy for the county poor fund after receiving a certificate authorizing them so to do, issued by the state board of equalization as in this act provided.

Certification of poor fund budget.

Section 2. On or before the second Monday in July, the boards of county commissioners of counties desiring to avail themselves of the provisions of this act shall submit a certified copy of their county poor fund budget to the state examiner and a like certified copy of such budget to the state department of public welfare. The state examiner shall examine such budget and if it is found by the state examiner that such budget is in compliance with the laws of this state and the rules and regulations of such examiner's office, he shall so certify and transmit such certified copy of the budget, together with his certificate thereon, to the state board of equalization. The state department of public welfare shall examine such budget and if it finds the expenditures and revenues of the previous year are correct and the estimated expenditures and revenues for the current year are approximately correct, then such department shall transmit such copy, together with its certificate, to the state board of equalization.

Certification of amount of levy.

Section 3. The state board of equalization shall, on receipt of the certified copies of such county poor fund budget containing certificates as provided in section 2 hereof, examine such documents and if such board finds that a levy as authorized in section 1, or any part thereof, in addition to all other poor fund revenues is necessary, the said board shall certify the amount of the levy to be made by the county commissioners of such county and transmit such certificates to such board of county commissioners who shall thereupon be authorized to make such levy as is authorized.

Effective 7/1/61 to 6/30/63.

Section 4. This act shall be in full force and effect from the first day of July, 1961 to the thirtieth day of June, 1963.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 6, 1961.

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CHAPTER 11

An Act to Amend Section 16-1706 of the Revised Codes of Montana, 1947, Relating to Noxious Weed Control, to Provide for Encompassing State Institutional and Custodial Lands Within the Purview of the Weed Control Law; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-1706 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Wilfully permitting noxious weeds to seed unlawful.

"16-1706. *Wilfully* **permitting noxious weeds to go to seed unlawful.** It shall be unlawful to *wilfully* permit any noxious weed, as named in this act, or designated by the board of county commissioners of the respective county, to go to seed on any lands within the areas of any district. This section shall apply to all persons, co-partnerships, corporation, or companies owning, occupying or controlling lands, easements, or right-of-ways, as well as all county, state and federal owned and controlled highways, *state lands;* also all drainage and irrigation ditches, spoil banks, borrow pits and right-of-ways for canals and laterals within the district."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 6, 1961.

CHAPTER 12

An Act to Amend Section 26-302 of the Revised Codes of Montana, 1947, Relating to Requirement that Big Game Hunters Must Wear Colored Clothing, to Provide That Big Game Hunters May Wear Red, Orange or Yellow Color on Clothing; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-302 of the Revised Codes of Montana, 1947, be amended to read as follows:

Big game hunters to wear colored garments.

"Section 26-302. **Big game hunters to wear** *colored* **garments.** It shall be unlawful for any person to hunt any of the big game animals in this state under any of

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the provisions of the laws of this state without such person wearing *as an exterior garment,* a cap or hat, shirt jacket, coat or sweater of a bright red, *orange or yellow color.*''

Section 2. All acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 6, 1961.

CHAPTER 13

An Act Providing for the Codification and General Revision of the Laws Relating to Rules of Pleading; Practice and Procedure in Civil Cases in the Courts of the State of Montana for the Purpose of Simplifying Judicial Proceedings and Promoting the Speedy Determination of Litigation Upon Its Merits; Providing for an Effective Date of This Act; Repealing the following Sections of the Revised Codes of Montana, 1947: Section 93-2303; Section 93-2801; Section 93-2805; Section 93-2811; Section 93-2812; Section 93-2816; Section 93-2818; Section 93-2821; Section 93-2822; Sections 93-2824 Through 93-2826; Section 93-2828; Section 93-2905; Section 93-3003; Section 93-3006; Section 93-3007; Sections 93-3013 Through 93-3015; Section 93-3017; Section 93-3018; Sections 93-3101 Through 93-3103; Sections 93-3201 Through 93-3203; Sections 93-3301 Through 93-3306; Section 93-3401; Section 93-3402; Section 93-3404; Section 93-3405; Section 93-3408; Sections 93-3410 Through 93-3412; Section 93-3415; Sections 93-3501 Through 93-3506; Sections 93-3601 Through 93-3604; Section 93-3701; Sections 93-3801 Through 93-3803; Sections 93-3806 Through 93-3808; Sections 93-3811 Through 93-3813; Sections 93-3815 Through 93-3819; Section 93-3820 as Amended by Chapter 16, Laws of 1953; Sections 93-3901 Through 93-3905; Section 93-3907; Section 93-3909; Section 93-4120; Section 93-4701; Sections 93-4703 Through 93-4705; Section 93-4708; Section 93-4709; Section 93-4801; Section 93-4902; Section 93-4904; Section 93-4905 as Amended by Chapter 84, Laws of 1949; Section 93-4906; Section 93-4908; Section 4909; Sections 93-5012 Through 93-5014; Subsection (5) of Section 93-5101; Section 93-5111; Section 93-5201; Section 93-5202; Section 93-5301;

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Section 93-5303; Sections 93-5401 Through 93-5403; Sections 93-5405 Through 93-5407; Sections 93-5410 Through 93-5412; Section 93-5502; Section 93-5605; Section 93-5701; Section 93-5703; Section 93-8007 as Amended by Chapter 75, Laws of 1959; Sections 93-8008 Through 93-8010; Section 93-8201; Section 93-8301; Section 93-8401; Section 93-8403; Sections 93-8501 Through 93-8504; Section 93-8507; Section 93-8607; Section 93-8705; Section 93-1501-5; Sections 93-1801-1 Through 93-1801-3; Section 93-1801-4 as Amended by Chapter 9, Laws of 1953; Sections 93-1801-5 Through 93-1801-16; Section 93-1901-9; Sections 93-2301-1 Through 93-2301-7; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

CHAPTER 1. SCOPE OF RULES — ONE FORM OF ACTION

Scope of rules.

Section 1. Rule 1. **Scope of rules.**

These rules govern the procedure in the district courts of the State of Montana in all suits of a civil nature whether cognizable as cases at law or in equity, with the exceptions stated in Rule 81; provided, however, that the discovery procedures set forth in Rules 26 through 37, inclusive, shall be applicable to proceedings in probate. They shall be construed to secure the just, speedy, and inexpensive determination of every action.

One form of action.

Section 2. Rule 2. **One form of action.**

There shall be one form of action to be known as "Civil Action."

CHAPTER 2. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS.

Commencement of action.

Section 3. Rule 3. **Commencement of action.**

A civil action is commenced by filing a complaint with the court.

Section 4. Rule 4. **Persons subject to jurisdiction; process; service.**

Definition of person.

A. *Definition of Person.* As used in this rule, the word "person", whether or not a citizen or resident of

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this state and whether or not organized under the laws of this state, includes an individual whether operating in his own name or under a trade name; an individual's agent or personal representative; a corporation; a business trust; an estate; a trust; a partnership; an unincorporated association; and any two or more persons having a joint or common interest or any other legal or commercial entity.

Subject to jurisdiction.

B. (1) *Subject to Jurisdiction.* All persons found within the State of Montana are subject to the jurisdiction of the courts of this state. In addition, any person is subject to the jurisdiction of the courts of this state as to any cause of action arising from the doing personally, through an employee, or through an agent, of any of the following acts:

(a) the transaction of any business within this state;

(b) the commission of any act which results in accrual within this state of a tort action;

(c) the ownership, use, or possession of any property, or of any interest therein, situated within this state;

(d) contracting to insure any person, property, or risk located within this state at the time of contracting;

(e) entering into a contract for services to be rendered or for materials to be furnished in this state by such person; or

(f) acting as director, manager, trustee, or other officer of any corporation organized under the laws of, or having its principal place of business within, this state, or as executor or administrator of any estate within this state.

Jurisdiction acquired.

(2) *Acquisition of Jurisdiction.* Jurisdiction may be acquired by our courts over any person through service of process as herein provided; or by the voluntary appearance in an action by any person either personally, or through an attorney, or through any other authorized officer, agent or employee.

C. *Process.*

Summons—issuance.

(1) *Summons: Issuance.* Upon the filing of the complaint, the clerk shall forthwith issue a summons, and

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shall deliver the summons either to the sheriff of the county in which the action is filed, or to the person who is to serve it, or upon request, to the attorney for said party who shall thereafter be responsible to see that the summons is served in the manner prescribed by these rules. Upon request, separate or additional summons shall issue against any parties designated in the original action, or against any additional parties who may be brought into the action.

Form.

(2) *Same: Form.* The summons shall be signed by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to appear and defend, and shall notify him that in case of his failure to do so judgment by default will be rendered against him for the relief demanded in the complaint.

D. *Service.*

By whom served.

(1) *By Whom Served.* Service of all process shall be made by a sheriff of the county where the party to be served is found, by his deputy, by a constable authorized by law, or by any other person over the age of 21 not a party to the action, except that a subpoena may be served as provided in Rule 45.

Personal service within state.

(2) *Personal Service Within the State.* The summons and complaint shall be served together, unless two or more defendants are residents of the same county, in which case a copy of the complaint need only be served upon one of such defendants. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

(a) Upon an individual other than an infant or an incompetent person, by delivering a copy of the summons and of the complaint to him personally or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process, provided that if the agent is one designated by statute to receive service, such further notice as the statute requires shall be given.

(b) Upon a minor over the age of 14 years, by de-

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livering a copy of the summons and complaint to him personally, and by leaving a copy thereof at his dwelling house or usual place of abode with some adult of suitable discretion then residing therein, or by delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.

(c) Upon a minor under the age of 14 years, by delivering a copy of the summons and complaint to his guardian, if he has one within the state, and if not, then to his father or mother or other person or agency having his care or control, or with whom he resides, or if service cannot be made upon any of them, then as provided by order of the court.

(d) Upon a person who has been adjudged of unsound mind by a court of this state, or for whom a guardian has been appointed in this state by reason of incompetency, by delivering a copy of the summons and complaint to his guardian, if there be a guardian residing in this state appointed and acting under the laws of this state. If there be no such guardian, the court shall appoint a guardian *ad litem* for the incompetent person, with or without personal service on the incompetent, as the court may direct. When a party is alleged to be of unsound mind, but has not been so adjudged by a court of this state, such party may be brought into court by service of process personally upon him. The court may also stay any action pending against a person on learning that such person is of unsound mind.

(e) Upon a domestic corporation or upon a partnership or other unincorporated association, by delivering a copy of the summons and complaint to an officer, director, superintendent or managing or general agent, or partner, or associate, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant. If the sheriff shall make return that no person upon whom service may be made can be found in the county, then service may be made by leaving a copy of the summons and complaint at any office of the domestic corporation, partnership, or unincorporated association within this state with the person in charge of such office. If the suit is against a corporation whose charter or right

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to do business in the state has expired or been forfeited, by delivering a copy thereof to any one of the persons who have become trustees for the corporation and its stockholders or members, and if none such can be found, service may be made upon the secretary of state.

(f) Upon a foreign corporation, partnership or other unincorporated association, established by the laws of any other state or country, and having a place of business within this state or doing business herein either permanently or temporarily, or which was doing business herein either permanently, or temporarily at the time the cause of action accrued, (i) by delivering a copy of the summons and complaint to an officer, director, superintendent or managing or general agent, or partner, or associate, or attorney for such corporation, partnership, or association; or by leaving such copies at the office or place of business of the corporation, partnership, or association within the state with the person in charge of such office; or (ii) by delivering a copy of the summons and complaint to any agent or attorney in fact authorized by appointment or by statute to receive or accept service on behalf of the corporation, partnership, or association, provided that if the agent or attorney in fact is one designated by statute to receive service, such further notice as the statute requires shall also be given; or (iii) if the charter of the foreign corporation, or its right to do business, has expired or been forfeited, by delivering a copy of the summons and complaint to one of the persons who have become trustees for the corporation and its stockholders or members, if such can be found in Montana.

(g) Upon a city, village, town, school district, county, or public agency or board of any such public bodies, by delivering a copy of the summons and complaint to any commissioner, trustee, board member, mayor or head of the legislative department thereof.

(h) Upon the state, or any state board or state agency, by delivering a copy of the summons and complaint to the governor, or to any member of such state board or state agency, and also by delivering an additional copy of the summons and complaint to the attorney general.

Personal service outside state.

(3) *Personal Service Outside the State.* Where service upon any person cannot, with due diligence, be made personally within this state, service of summons and com-

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plaint may be made by service outside this state in the manner provided for service within this state, with the same force and effect as though service had been made within this state. Where service of summons by publication is permitted as hereinafter provided, personal service of the summons and complaint upon the defendant out of the state, made after the filing of the required complaint and required affidavit for publication, shall be equivalent to, and shall have the same force and effect as, the publication and mailing provided for hereafter in 5(d) and 5(e) of this rule.

Other service.

(4) *Other Service.* Whenever a statute of this state or an order of the court made pursuant thereto provides for the service of a summons or of a notice or of an order in lieu of summons upon a party not an inhabitant of or found within the state, service shall be made under the circumstances and in the manner prescribed by the statute or order.

Service by publication, when permitted.

(5) *Service by Publication; When Permitted; Effect; Manner; Proof.*

(a) *When Permitted.* A defendant, whether known or unknown, who has not been served under the foregoing subsections of this rule can be served by publication in the following situations only:

(i) When the subject of the action is real or personal property in this state and the defendant has or claims a lien or interest, actual or contingent, therein, or the relief demanded consists wholly or partially in excluding the defendant from any interest therein. This subsection shall apply whether any such defendant is known or unknown.

(ii) When the action is to foreclose, redeem from or satisfy a mortgage, claim or lien upon real or personal property within this state.

(iii) When the action is for divorce or for annulment of marriage of a resident of this state or for modification of a decree of divorce granted by a court of this state.

(iv) When the defendant has property within this state which has been attached or has a debtor within this state, who has been garnished. Jurisdiction under this subsection may be independent of or supplementary to

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jurisdiction acquired under subsections 5(a)(i), 5(a)(ii), and 5(a)(iii) herein.

Effect of service by publication.

(b) *Effect of Service by Publication.* When a defendant, whether known or unknown, has been served by publication as provided in this rule, any court of this state having jurisdiction may render a decree which will adjudicate any interest of such defendant in the status, property, or thing acted upon, but it may not bind the defendant personally to the personal jurisdiction of the court unless some ground for the exercise of personal jurisdiction exists.

Filing of pleading and affidavit for service by publication.

(c) *Filing of Pleading and Affidavit for Service by Publication.* Before service of the summons by publication is authorized in any case, there shall be filed with the clerk in the district court of the county in which the action is commenced (i) a pleading setting forth a claim in favor of the plaintiff and against the defendant in one of the situations defined in 5(a) above; and (ii) upon return of the summons showing the failure to find any defendant designated in the complaint, an affidavit stating that such defendant resides out of the state, or has departed from the state, or cannot, after due diligence, be found within the state, or conceals himself to avoid the service of summons; or that the defendant, if a domestic or foreign corporation, has no agent for the service of process, nor managing nor business agent, cashier, secretary, or other officer who can, after due diligence, be found within the state; or, if the defendant is an unknown claimant, by showing that he has made diligent search and inquiry for all persons who claim, or might claim any right, title, estate, or interest in, or lien, or encumbrance upon, such property, or any thereof, adverse to plaintiff's ownership, or any cloud upon plaintiff's title thereto, whether such claim or possible claim be present or contingent, including any right of dower, inchoate or accrued, and that he has specifically named as defendants in such action all such persons whose names can be ascertained. Such affidavit shall be sufficient evidence of the diligence of any inquiry made by the affiant, if the affidavit recite the fact that diligent inquiry was made, and it need not detail the facts constituting such inquiry.

Number of publications.

(d) *Number of Publications.* Service of the summons by publication may be made by publishing the same 3

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times, once each week for 3 successive weeks, in a newspaper published in the county in which the action is pending, if a newspaper is published in such county, and if no newspaper is published in such county then in a newspaper published in an adjoining county and having a general circulation therein.

Mailing summons and complaint.

(e) *Mailing Summons and Complaint.* A copy of the summons for publication and complaint, at any time after the filing of the affidavit for publication and not later than 10 days after the first publication of the summons, shall be deposited in some post office in this state, postage prepaid, and directed to the defendant at his place of residence unless the affidavit for publication states that the residence of the defendant is unknown. If the defendant is a foreign corporation whose charter has not expired or been forfeited, and personal service cannot be effected within Montana under the provisions of this rule, copy of the summons for publication and complaint shall be mailed to (i) the manager of the office of the principal place of business of the corporation, or if none, to one of the officers or directors of such corporation; or (ii) to an agent or attorney in fact authorized by appointment or by statute to receive or accept service on behalf of said corporation; or (iii) if none of the persons mentioned herein can be found, then to the last known address of the corporation at its principal home office, if known, and also to the Secretary of State of the state of its incorporation. If the defendant is a foreign corporation whose charter or right to do business has expired or been forfeited, then copy of the summons for publication and complaint shall be mailed to one of the persons who have become trustees for the corporation and its stockholders or members, and, if none can be found, to the last known address of the corporation at its principal home office, if known, and also to the Secretary of State of the state of its incorporation.

Time publication made.

(f) *Time When First Publication or Service Outside State Must Be Made.* The first publication of the summons, or personal service of the summons and complaint upon the defendant out of the state, must be made within 60 days after the filing of the affidavit for publication. If not so made, the action shall be deemed dismissed as to any person not served within said 60-day period.

When service by publication complete.

(g) *When Service by Publication or Outside State Complete.* Service by publication is complete upon the

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expiration of 20 days after the last publication of the summons, or in case of personal service of the summons and complaint upon the defendant out of the state, upon the expiration of 20 days after the date of such service.

Additional information to be published.

(h) *Additional Information to Be Published.* In addition to the form of summons prescribed above in *"C. Process, (2) Same: Form"*, the published summons shall state in general terms the nature of the action, and in all cases where publication of summons is made in an action in which the title to, or any interest in or lien upon real property is involved, or affected, or brought into question, the publication shall also contain a description of the real property involved, affected or brought into question thereby, and a statement of the object of the action.

Service on secretary of state.

(6) *Service on Secretary of State.* Unless otherwise provided by statute, whenever the Secretary of State of the State of Montana has been appointed, or is deemed by law to have been appointed, as the agent to receive service of process for any person who cannot with due diligence be found or served personally within Montana, the party, or his attorney, shall make an affidavit stating the facts showing that the secretary of state is such agent, and stating the residence and last known post office address of the person to be served, and shall file such affidavit with the clerk of the court in which such action is pending, accompanied by sufficient copies of such affidavit and of the summons and complaint for service upon the secretary of state, and the sum of three dollars to be paid to the secretary of state as a fee for the receipt of such service. The clerk shall forward three copies of the summons, complaint and affidavit, and the fee, to the sheriff of Lewis and Clark county for service on the secretary of state or his deputy by delivering thereto, and the sheriff shall make due return of such service.

Effect—Notice and copy by registered mail.

Such service on the secretary of state shall be sufficient personal service upon the person to be served, provided that notice of such service and a copy of the summons and complaint are forthwith sent by registered or certified mail by the secretary of state to the party to be served at his last known address, marked "Deliver to Addressee Only" and "Return Receipt Requested", and provided further that such return receipt shall be received by the secretary of state purporting to have been signed by said

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addressee, or the secretary of state shall be advised by the postal authority that delivery of said registered or certified mail was refused by said addressee. The date on which the secretary of state receives said return receipt, or advice by the postal authority that delivery of said registered or certified mail was refused, shall be deemed to be the date of service, and the court in which the action is pending may order such continuance as may be necessary to afford reasonable opportunity to defend the action. As an alternative to sending the notice and summons and complaint by registered or certified mail, as here provided, the secretary of state may cause notice of the service and a copy of the summons and complaint to be served by any qualified law enforcement officer, in accord with the procedure set out in D(1), (2) and (3) of this rule.

Alternative procedure.

The secretary of state shall make an affidavit as to the service on him, and as to his mailing a copy of the summons and complaint and notice of such service, and as to the receipt of the return receipt or advice of the refusal of registered mail, and the respective dates thereof, and shall transmit such affidavit to the clerk of the court in which the action is pending, and it shall be filed in the cause. The secretary of state shall keep on file in his office a copy of the summons and complaint, and of his affidavit, and also keep a record which shall show the day and hour and manner of such service.

Affidavit of service and mailing by secretary of state.

(7) *Amendment.* At any time, in its discretion, and upon such notice and terms as it deems just, the court may allow any process or proof of service thereof to be amended unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

Amendment of process or proof of service.

(8) *Proof of Service.* Proof of the service of the summons and of the complaint or notice, if any, accompanying the same must be as follows:

Proof of service.

(a) If served by the sheriff or other officer, his certificate thereof;

(b) If by any other person, his affidavit thereof;

(c) In case of publication an affidavit of the publisher and an affidavit of the deposit of a copy of the summons and complaint in the post office as required by law, if the same shall have been deposited; or

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(d) The written admission of the defendant showing the time and place of service.

The certificate or affidavit of service mentioned in this subdivision must state the time, date, place, and manner of service.

Contents—Affidavit of service.

(9) *Contents of Affidavit of Service.* Whenever a process, pleading, order of court, or other paper is served personally by a person other than the sheriff or person designated by law, the affidavit of service when made, shall state that the person so serving is of legal age, and the date and place of making the service. It also shall state that the person making such service knew the person served to be the person named in the papers served and the person intended to be served.

Procedure where all defendants not served.

(10) *Procedure Where Only Part of Defendants Are Served.* If the summons is served on one or more, but not all, of the defendants, the plaintiff may proceed to trial and judgment against the defendant or defendants on whom the process is served, and may at any time thereafter have a summons against the defendant not served with the first process to cause him to appear in said court to show cause why he should not be made a party to such judgment. Upon such defendant being duly served with such process, the court shall hear and determine the matter in the same manner as if such defendant had been originally brought into court, and such defendant shall also be allowed the benefit of any payment or satisfaction which may have been made on the judgment before recovered.

Section 5. Rule 5. **Service and filing of pleadings and other papers.**

Service—when required.

(a) *Service: When Required.* Every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every written motion other than one which may be heard *ex parte,* and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties affected thereby, but no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.

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Service—how made.

(b) *Same: How Made.* Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.

Service—numerous defendants.

(c) *Same: Numerous Defendants.* In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

Filing all papers served.

(d) *Filing.* All papers after the complaint required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter.

Filing with court defined.

(e) *Filing With the Court Defined.* The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

(f) *Proof of Service.* Proof of service shall be made by an affidavit of the party or his attorney making service, or by the certificate of his resident attorney making service or by an acknowledgment in writing from the

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party or attorney served, and such affidavit, certificate or acknowledgment shall be filed within 10 days after service. Failure to make proof of service does not affect the validity of the service.

Section 6. Rule 6. **Time.**

Computation of time.

(a) *Computation.* In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

Extension of time by court.

(b) *Enlargement.* When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 50(b), 52(b), 59(b), (d) and (e), and 60(b), except to the extent and under the conditions stated in them.

Time unaffected by term.

(c) *Unaffected by Expiration of Term.* The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the continued existence or expiration of a term of court. The continued existence or expiration of a term of court in no way affects the power of a court to do any act or take any proceeding in any civil action which has been pending before it.

5-day notice of hearing on motion.

(d) *For Motions—Affidavits.* A written motion, other than one which may be heard *ex parte,* and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period

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is fixed by these rules or by order of the court. Such an order may for cause shown be made on *ex parte* application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, except as otherwise provided in Rule 59(c), opposing affidavits may be served not later than 1 day before the hearing, unless the court permits them to be served at some other time.

Affidavit served with motion.

(e) *Additional Time After Service by Mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

Additional time after service by mail.

CHAPTER 3. PLEADINGS AND MOTIONS.

Section 7. Rule 7. **Pleadings allowed; form of motions.**

(a) *Pleadings.* There shall be a complaint and an answer; and there shall be a reply to a counterclaim denominated as such; and an answer to a cross-claim; a third-party complaint, if a person who was not an original party is summoned under Rule 14; and there shall be a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

Pleadings allowed.

(b) *Motions and Other Papers.*

(1) An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

Application for order made by motion.

(2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(c) *Demurrers, Pleas, Etc., Abolished.* Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.

Demurrer abolished.

Section 8. Rule 8. **General rules of pleading.**

(a) *Claims for Relief.* A pleading which sets forth a claim for relief, whether an original claim, counterclaim,

Form of pleading claims for relief.

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cross-claim or third-party claim, shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded.

Defenses—form of denials.

(b) *Defenses; Form of Denials.* A party shall state in short and plain terms his defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If he is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part of a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, he may make his denials as specific denials of designated averments or paragraphs, or he may generally deny all the averments except such designated averments or paragraphs as he expressly admits; but, when he does so intend to controvert all its averments, including averments of the grounds upon which the court's jurisdiction depends, he may do so by general denial subject to the obligations set forth in Rule 11.

Pleading affirmative defenses.

(c) *Affirmative Defenses.* In pleading to a preceding pleading, a party shall set forth affirmative accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

Effect of failure to deny.

(d) *Effect of Failure to Deny.* Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Averments in a plead-

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ing to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(e) *Pleading to Be Concise and Direct; Consistency.* Pleading—simple, concise, direct.

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motion are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in Rule 11. Consistency of claims and defenses.

(f) *Construction of Pleadings.* All pleadings shall be so construed as to do substantial justice. Construction of pleadings.

Section 9. Rule 9. **Pleading special matters.** Pleading special matters: capacity to sue or be sued.

(a) *Capacity.* It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued in a representative capacity, he shall do so by specific negative averment, which shall include such supporting particulars as are peculiarly within the pleader's knowledge.

(b) *Fraud, Mistake, Condition of the Mind.* In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally. Fraud, mistake, condition of mind.

(c) *Conditions Precedent.* In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity. Conditions precedent.

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Official document, act, ordinance, statute.

(d) *Official Document, Act, Ordinance or Statute.* In pleading an official document or official act it is sufficient to aver that the document was issued or the act done in compliance with law. In pleading any ordinance or regulation of any county, city, village, or other political subdivision of this state, or any special, local or private statute, or any right derived therefrom, or the laws of another jurisdiction, it is sufficient to refer to the ordinance, regulation, statute or law by its title and the date of its passage, or by the appropriate designation in the official or recognized compilation thereof.

Judgment.

(e) *Judgment.* In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

Time and place.

(f) *Time and Place.* For the purpose of testing the sufficiency of a pleading, averments of time and place are material and shall be considered like all other averments of material matter.

Special damage.

(g) *Special Damage.* When items of special damage are claimed, they shall be specifically stated.

Section 10. Rule 10. **Form of pleadings.**

Caption.

(a) *Caption; Names of Parties.* Every pleading shall contain a caption setting forth the name, district and county of the court, the title of the action, the number of the action, and a designation as in Rule 7(a). In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

Numbered paragraphs.

(b) *Paragraphs; Separate Statements.* All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all

Separate statements.

succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

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(c) *Adoption by Reference; Exhibits.* Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

Adoption by reference, exhibits.

Section 11. Rule 11. **Signing of pleadings.**

Signing of pleadings.

Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading had not been served. For a wilful violation of this rule an attorney may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

Section 12. Rule 12. **Defenses and objections—When and how presented—By pleading or motion—Motion for judgment on pleadings.**

Defenses and objections.

(a) *When Presented.* Except as otherwise provided by statute applicable to particular defendants or proceedings, the responsive pleadings shall be served as follows: A defendant shall serve his answer within 20 days after the service of the summons and complaint upon him, or within 20 days after the completion of service of process as provided in Rule 4, unless the court directs otherwise when service of process is made pursuant to Rule 4D(4). A party served with a pleading stating a cross-claim against him shall serve an answer thereto within 20 days after the service upon him. The plaintiff shall serve his reply to a counterclaim in the answer within 20 days after service of the answer, or, if a reply is ordered by the court, within 20 days after service of the order or such time as the order otherwise directs. Unless a different time is fixed by the court, when a motion permitted by these rules is served,

When presented.

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the responsive pleading shall be served within 20 days after notice of the court's action if the court denies the motion or postpones its disposition until trial on the merits, and shall be served within 20 days after the service of the more definite statement if the court grants a motion for a more definite statement.

How presented.

(b) *How Presented.* Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, (7) failure to join an indispensable party. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

Defenses by motion.

Motion for judgment on the pleadings.

(c) *Motion for Judgment on the Pleadings.* After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

Preliminary hearings.

(d) *Preliminary Hearings.* The defenses specifically enumerated (1)-(7) in subdivision (b) of this rule, whether

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made in a pleading or by motion, and the motion for judgment mentioned in subdivision (c) of this rule shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.

Motion for more definite statement.

(e) *Motion for More Definite Statement.* If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

Motion to strike.

(f) *Motion to Strike.* Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

Consolidation of defenses in motion.

(g) *Consolidation of Defenses.* A party who makes a motion under this rule may join with it the other motions herein provided for and then available to him. If a party makes a motion under this rule and does not include therein all defenses and objections then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on any of the defenses or objections so omitted, except as provided in subdivision (h) of this rule.

Waiver of defenses.

(h) *Waiver of Defenses.* A party waives all defenses and objections which he does not present either by motion as hereinbefore provided or, if he has made no motion, in his answer or reply, except (1) that the defense of failure to state a claim upon which relief can be granted, the defense of failure to join an indispensable party, and the objection of failure to state a legal defense to a claim may also be made by a later pleading, if one is permitted, or by motion for judgment on the pleadings or at the trial on the merits, and except (2) that, whenever it appears by sug-

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gestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action. The objection or defense, if made at the trial, shall be disposed of as provided in Rule 15(b) in the light of any evidence that may have been received.

Section 13. Rule 13. **Counterclaim and cross-claim.**

Compulsory counterclaims.

(a) *Compulsory Counterclaims.* A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction, except that such claim need not be so stated if at the time the action was commenced the claim was the subject of another pending action.

Permissive counterclaims.

(b) *Permissive Counterclaims.* A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim.

Effect of counterclaim.

(c) *Counterclaim Exceeding Opposing Claim.* A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

Counterclaim against state.

(d) *Counterclaim Against the State.* These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims or to claim credits against the State of Montana or any of its governmental subdivisions, agencies or officers.

Counterclaim after pleading.

(e) *Counterclaim Maturing or Acquired After Pleading.* A claim which either matured or was acquired by the pleader after serving his pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

Counterclaim by amendment.

(f) *Omitted Counterclaim.* When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, he may by leave of court set up the counterclaim by amendment.

Cross-claim against co-party.

(g) *Cross-Claim Against Co-Party.* A pleading may state as a cross-claim any claim by one party against a co-

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party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

Court shall order additional parties brought in.

(h) *Additional Parties May Be Brought in.* When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross-claim, the court shall order them to be brought in as defendants as provided in these rules, if jurisdiction of them can be obtained.

Separate trials; separate judgment.

(i) *Separate Trials; Separate Judgment.* If the court orders separate trials as provided in Rule 42(b), judgment on a counterclaim or cross-claim may be rendered in accordance with the terms of Rule 54(b), even if the claims of the opposing party have been dismissed or otherwise disposed of.

Section 14. Rule 14. **Third-party practice.**

When defendant may bring in third party.

(a) *When Defendant May Bring in Third Party.* At any time after commencement of the action a defendant as a third-party plaintiff may cause to be served a summons and complaint upon a person not a party to the action who is or may be liable to such third-party plaintiff for all or part of the plaintiff's claim against him. The person so served, hereinafter called the third-party defendant, shall make his defenses to the third-party plaintiff's claim as provided in Rule 12 and his counterclaims against the third-party plaintiff and cross-claims against other third-party defendants as provided in Rule 13. The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third party defendant thereupon shall assert his defenses as provided in Rule 12 and his counterclaims and

Assertion or claims and defenses.

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Motion on third party claim.

cross-claims as provided in Rule 13. Any party may move for severance, separate trial, or dismissal of the third-party claim; the court may direct a final judgment upon either the original claim or the third-party claim alone in accordance with the provisions of Rule 54(b). A third-party defendant may proceed under this rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third-party defendant.

When plaintiff may bring in third party.

(b) *When Plaintiff May Bring in Third Party.* When a counterclaim is asserted against a plaintiff, he may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

Section 15. Rule 15. **Amended and supplemental pleadings.**

Amendment of pleadings.

(a) *Amendments.* A party may amend his pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it at any time within 20 days after it is served. Otherwise a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

Amendment to conform to evidence.

(b) *Amendments to Conform to the Evidence.* When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure to so amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails

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to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

Relation back of amendments.

(c) *Relation Back of Amendments.* Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading.

Supplemental pleadings.

(d) *Supplemental Pleadings.* Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented, whether or not the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead thereto, it shall so order, specifying the time therefor.

Section 16. Rule 16. **Pre-trial procedure; formulating issues.**

Pre-trial conference.

In any action, the court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

(1) The simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(4) The limitation of the number of expert witnesses;

(5) The advisability of a preliminary reference of issues to a master for findings to be used as evidence when the trial is to be by jury;

(6) Such other matters as may aid in the disposition of the action.

The court shall make an order which recites the action taken at the conference, the amendments allowed to the

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pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. The court in its discretion may establish by rule a pre-trial calendar on which actions may be placed for consideration as above provided and may either confine the calendar to jury actions or to non-jury actions or extend it to all actions.

Pre-trial calendar.

CHAPTER 4. PARTIES

Section 17. Rule 17. **Parties plaintiff and defendant; capacity.**

Real party in interest.

(a) *Real Party in Interest.* Every action shall be prosecuted in the name of the real party in interest; but an executor, administrator, guardian, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action is brought; and when a statute of the State of Montana so provides, an action for the use or benefit of another shall be brought in the name of the State of Montana.

Capacity determined by statute.

(b) *Capacity to Sue or Be Sued.* The capacity of persons to sue or be sued shall be determined by appropriate statutory provisions.

Infants or incompetents.

(c) *Infants or Incompetent Persons.* Whenever an infant or incompetent person has a representative, such as a general guardian, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. If an infant or incompetent person does not have a duly appointed representative he may sue by his next friend or by a guardian *ad litem.* The court shall appoint a guardian *ad litem* for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person, or in any case where the court deems it expedient a guardian *ad litem* may be appointed to represent an infant or incompetent person, even though the infant or incompetent person may have a general guardian and may have appeared by him.

Guardian ad litem.

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Section 18. Rule 18. **Joinder of claims and remedies.**

Joinder of claims.

(a) *Joinder of Claims.* The plaintiff in his complaint or in a reply setting forth a counterclaim and the defendant in an answer setting forth a counterclaim may join either as independent or as alternative claims as many claims either legal or equitable or both as he may have against an opposing party. There may be a like joinder of claims when there are multiple parties if the requirements of Rules 19, 20, and 22 are satisfied. There may be a like joinder of cross-claims or third-party claims if the requirements of Rules 13 and 14 respectively are satisfied.

Joinder of remedies; fraudulent conveyances.

(b) *Joinder of Remedies; Fraudulent Conveyances.* Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties. In particular, a plaintiff may state a claim for money and a claim to have set aside a conveyance fraudulent as to him, without first having obtained a judgment establishing the claim for money. This rule shall not be applied in tort cases so as to permit the joinder of a liability or indemnity insurance carrier, unless such carrier is by law or contract directly liable to the person injured or damaged.

Joinder of insurance carrier.

Section 19. Rule 19. **Necessary joinder of parties.**

Necessary joinder of parties.

(a) *Necessary Joinder.* Subject to the provisions of Rule 23 and of subdivision (b) of this rule, persons having a joint interest shall be made parties and be joined on the same side as plaintiffs or defendants. When a person who should join as a plaintiff refuses to do so, he may be made a defendant or, in proper cases, an involuntary plaintiff.

Effect of failure to join.

(b) *Effect of Failure to Join.* When persons who are not indispensable, but who ought to be parties if complete relief is to be accorded between those already parties, have not been made parties and are subject to the jurisdiction of the court as to services of process, the court shall order them summoned to appear in the action. The court in its discretion may proceed in the action without making such persons parties, if its jurisdiction over them as to services of process can be acquired only by their

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consent or voluntary appearance; but the judgment rendered therein does not affect the rights or liabilities of absent persons.

Pleading non-joinder.

(c) *Same: Names of Omitted Persons and Reasons for Non-Joinder to be Pleaded.* In any pleading in which relief is asked, the pleader shall set forth the names, if known to him, of persons who ought to be parties if complete relief is to be accorded between those already parties but who are not joined, and shall state why they are omitted.

Section 20. Rule 20. **Permissive joinder of parties.**

Permissive joinder.

(a) *Permissive Joinder.* All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

Separate trials.

(b) *Separate Trials.* The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

Section 21. Rule 21. **Misjoinder and non-joinder of parties.**

Effect of misjoinder.

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just.

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Any claim against a party may be severed and proceeded with separately.

Section 22. Rule 22. **Interpleader.** Interpleader.

(a) *By Joinder, Cross-Claim or Counterclaim.* Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties permitted in Rule 20. Joinder—when proper.

(b) *By Substitution.* A defendant against whom an action is pending upon a contract, or for specific real or personal property, at any time before answer, upon affidavit that a person not a party to the action and without collusion with him makes against him a demand for the same debt or property, upon due notice to such person and the adverse party, may apply to the court for an order to substitute such person in his place and to discharge him from liability to either party on his depositing in court the amount of the debt, or delivering the property or its value to such person as the court may direct, and the court, in its discretion, may make the order. Substitution of defendants.

Section 23. Rule 23. **Class actions.**

(a) *Representation.* If persons constituting a class are so numerous as to make it impracticable to bring them all before the court, such of them, one or more, as will fairly insure the adequate representation of all may, on behalf of all, sue or be sued, when the character of the right sought to be enforced for or against the class is Class representation.

(1) joint, or common, or secondary in the sense that the owner of a primary right refuses to enforce that right and a member of the class thereby becomes entitled to enforce it;

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(2) several, and the object of the action is the adjudication of claims which do or may affect specific property involved in the action; or

(3) several, and there is a common question of law or fact affecting the several rights and a common relief is sought.

Secondary action by shareholders.

(b) *Secondary Action by Shareholders.* In an action brought to enforce a secondary right on the part of one or more shareholders in an association, incorporated or unincorporated, because the association refuses to enforce rights which may properly be asserted by it, the complaint shall set forth with particularity the efforts of the plaintiff to secure from the managing directors or trustees and, if necessary, from the shareholders such action as he desires, and the reasons for his failure to obtain such action or the reasons for not making such effort.

Court approval—dismissal or compromise—class action.

(c) *Dismissal or Compromise.* A class action shall not be dismissed or compromised without the approval of the court. If the right sought to be enforced is one defined in paragraph (1) of subdivision (a) of this rule notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs. If the right is one defined in paragraphs (2) or (3) of subdivision (a) notice shall be given only if the court requires it.

Court orders to ensure adequate representation.

(d) *Orders to Ensure Adequate Representation.* The court at any stage of an action under subdivision (a) of this rule may impose such terms as shall fairly and adequately protect the interests of the persons on whose behalf the action is brought or defended. It may order that notice be given, in such manner as it may direct, of the pendency of the action, of a proposed settlement, of entry of judgment or of any other proceedings in the action, including notice to come in and present claims and defenses. When, notwithstanding such orders, the representation appears to the court inadequate fairly to protect the interests of absent parties, the court may, at any time prior to judgment, order an amendment of the pleadings, eliminating therefrom all reference to representation of the absent parties, and the court may order the entry of judgment in such form as to affect only the parties to the action and those adequately represented.

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Section 24. Rule 24. **Intervention.**

Intervention of right.

(a) *Intervention of Right.* Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the representation of the applicant's interest by existing parties is or may be inadequate and the applicant is or may be bound by a judgment in the action; or (3) when the applicant is so situated as to be adversely affected by a distribution or other disposition of property which is in the custody or subject to the control or disposition of the court or an officer thereof.

Permissive intervention.

(b) *Permissive Intervention.* Upon timely application anyone may be permitted to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

Procedure—motion to intervene.

(c) *Procedure.* A person desiring to intervene shall serve a motion to intervene upon all parties affected thereby. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute gives a right to intervene. When the constitutionality of an act of the legislative assembly affecting the public interest is drawn in question in any action to which neither the state nor any agency or officer thereof is a party, the court shall notify the attorney general of the state and the attorney general may within 20 days thereafter intervene in the same manner on behalf of the state.

Section 25. Rule 25. **Substitution of parties.**

(a) *Death.*

Motion for substitution—deceased party.

(1) If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper

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parties. The motion for substitution may be made by the successors or representatives of the deceased party or by any party and, together with the notice of hearing, shall be served on the parties as provided in Rule 5 and upon persons not parties in the manner provided in Rule 4 for the service of a summons, and may be served in any judicial district. If substitution is not made within a reasonable time, the action may be dismissed as to the deceased party.

Survival and abatement.

(2) In the event of the death of one or more of the plaintiffs or of one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The death shall be suggested upon the record and the action shall proceed in favor of or against the surviving parties.

After verdict or judgment.

(3) After a verdict is rendered or an order for judgment is made in any action, such action shall not abate by the death of any party, but the case shall proceed thereafter in the same manner as in cases where the cause of action survives by law, and substitution of parties shall be allowed as in other cases.

Incompetency.

(b) *Incompetency.* If a party becomes incompetent, the court upon motion served as provided in subdivision (a) of this rule may allow the action to be continued by or against his guardian or may appoint a guardian *ad litem* for that purpose.

Transfer of interest.

(c) *Transfer of Interest.* In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or join with the original party. Service of the motion shall be made as provided in subdivision (a) of this rule.

Substitution—successor in office.

(d) *Substitution of Successor to Public Officer.* When an officer of the state, county, city, or other governmental agency, is a party to an action and during its pendency dies, resigns, or otherwise ceases to hold office, the action may be continued and maintained by or against his successor, if it is satisfactorily shown to the court that there is a substantial need for so continuing and maintaining it. Substitution pursuant to this rule may be made when

Supplemental pleading.

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it is shown by supplemental pleading that the successor of an officer adopts or continues or threatens to adopt or continue the action of his predecessor in enforcing a law averred to be in violation of the constitution of the state. Before a substitution is made, the party or officer to be affected, unless expressly assenting thereto, shall be given reasonable notice of the application therefor and accorded an opportunity to object. If substitution is not made within a reasonable time, the action may be dismissed as to such public officer. When an officer of the class described herein may sue or be sued in his official capacity, he may be described as a party by his official title and not by name, subject to the power of the court, upon motion or on its own initiative, to require his name to be added. Unless his name is so added, no formal order of substitution is necessary.

Notice.

Dismissal.

CHAPTER 5. DEPOSITIONS AND DISCOVERY.

Section 26. Rule 26. **Depositions pending action.**

When and how depositions taken.

(a) *When Depositions May be Taken.* Any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the action or for both purposes. After the commencement of the action and service of process on any defendant the deposition may be taken without leave of court, except that leave, granted with or without notice, must be obtained, if notice of the taking is served by the plaintiff within 20 days after such service of process. The attendance of witnesses may be compelled by the use of subpoenas as provided in Rule 45. Depositions shall be taken only in accordance with these rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

Scope of examination.

(b) *Scope of Examination.* Unless otherwise ordered by the court as provided by Rule 30(b) or (d), the deponent may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and loca-

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Discovery.

tion of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence.

(c) *Examination and Cross-Examination.* Examination and cross-examination of deponents may proceed as permitted at the trial under the provisions of Rule 43(b).

Use of depositions.

(d) *Use of Depositions.* At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent of a public or private corporation, partnership, or association which is a party may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: 1, that the witness is dead; or 2, that the witness is at a greater distance than one hundred (100) miles from the place of trial or hearing, or is out of the State of Montana, unless it appears that the absence of the witness has been procured by the party offering the deposition; or 3, that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or 4, that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or 5, upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to intro-

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duce all of it which is relevant to the part introduced, and any party may introduce any other parts.

(5) Substitution of parties does not affect the right to use depositions previously taken; and, when an action in any court of the United States, the State of Montana or of any other state, has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

Objections to admissibility.

(e) *Objections to Admissibility.* Subject to the provisions of Rule 32(c), objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of evidence if the witness were then present and testifying.

Effect of taking or using depositions.

(f) *Effect of Taking or Using Depositions.* A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in paragraph (2) of subdivision (d) of this rule. At the trial or hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

Section 27. Rule 27. **Depositions before action or pending appeal.**

(a) *Before Action.*

Petition for perpetuation of testimony.

(1) Petition. A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable in any district court of the State of Montana may file a verified petition in the district court in the county of the residence of any expected adverse party. The petition shall be entitled in the name of the petitioner and shall show: 1, that the petitioner expects to be a party to an action cognizable in a district court of the State of Montana but is presently unable to bring it or cause it to be brought, 2, the subject matter of the expected action and his interest there-

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in, 3, the facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it, 4, the names or a description of the persons he expects will be adverse parties and their addresses so far as known, and 5, the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

Notice and service.

(2) *Notice and Service.* The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for an order described in the petition. At least twenty (20) days before the date of hearing the notice shall be served in the manner provided in Rule 4, and for persons not personally served in the manner provided in Rule 4D, who do not appear, an attorney shall be appointed who shall represent them and cross-examine the deponent. If an expected adverse party is a minor or incompetent the provisions of Rule 17(c) apply.

Order and examination.

(3) *Order and Examination.* If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with these rules; and the court may make orders of the character provided for by Rules 34 and 35. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

Use of deposition.

(4) *Use of Deposition.* If a deposition to perpetuate testimony is taken under these rules it may be used in any action involving the same subject matter subsequently brought in a district court of the State of Montana in accordance with the provisions of Rule 26(d).

(b) *Pending Appeal.* If an appeal has been taken from

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Procedure: deposition pending appeal.

a judgment of a district court or before the taking of an appeal if the time therefor has not expired, the district court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the district court. In such case the party who desires to perpetuate the testimony may make a motion in the district court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the district court. The motion shall show (1) the names and addresses of persons to be examined and the substance of the testimony which he expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by Rules 34 and 35, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the district court.

Power of court not limited.

(c) *Perpetuation by Petition.* This rule does not limit the power of a court to entertain a proceeding to perpetuate testimony.

Persons before whom depositions may be taken within the United States.

Section 28. Rule 28. **Persons before whom depositions may be taken.**

(a) *Within the United States.* Within the State of Montana, depositions shall be taken before a person authorized by the laws of this state to administer oaths; without the state, but within the United States, or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before a person authorized to administer oaths by the laws of this state, the United States, or of the place where the examination is held; within or without the State of Montana, depositions may also be taken before a person appointed by the court in which the action is pending, which persons so appointed shall have the power to administer oaths and take testimony.

In foreign countries.

(b) *In Foreign Countries.* In a foreign state or country depositions shall be taken (1) before a secretary of embassy or legation, consul, vice consul, or consular agent of the United States, or any officer authorized to admin-

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ister oaths under the laws of this state, or of the United States or (2) before a person appointed by the court. The officer or person is empowered to administer oaths and take testimony. A commission shall be issued only when necessary or convenient, on application and notice, and on such terms and with such directions as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title.

Disqualification for interest.

(c) *Disqualification for Interest.* No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

Taking depositions for use in other states.

(d) *Depositions to be Used in Other States.* Whenever the deposition of any person is to be taken in this state pursuant to the laws of another state or the United States or of another country for use in proceedings there, the district court of the county where the witness is to be served, upon proof that notice has been duly served, may issue, pursuant to Rule 45(d), the necessary subpoenas.

Section 29. Rule 29. **Stipulations regarding the taking of depositions.**

Taking by stipulation.

If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

Section 30. Rule 30. **Depositions upon oral examination.**

Notice of examination— time and place.

(a) *Notice of Examination: Time and Place.* A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of any party upon whom the notice is served, the court may for cause shown enlarge or shorten the time.

Motions for orders to protect parties and deponents.

(b) *Orders for the Protection of Parties and Deponents.* After notice is served for taking a deposition

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by oral examination, upon motion seasonably made by any party or by the person to be examined and upon notice and for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

Record of examination; oath; objections.

(c) *Record of Examination; Oath; Objections.* The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

Written interrogatories.

Motion to terminate or limit examination.

(d) *Motion to Terminate or Limit Examination.* At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or in the event that the deposition is being taken in an action pending in another state or country, the dis-

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trict court in the county where the deposition is being taken, may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision (b). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs or expenses as the court may deem reasonable.

Resumption or suspension.

Costs.

(e) *Submission to Witness; Changes; Signing.* When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress under Rule 32(d) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

Deposition submitted to witness for changing and signing.

Motion to suppress.

(f) *Certification and Filing by Officer; Copies; Notice of Filing.*

(1) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly file it with the court in which the action is pending or

Certification and filing by officer.

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send it by registered mail to the clerk thereof for filing.

Copies.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

Clerk of court to file and give notice.

(3) Upon receipt of a deposition the clerk of court shall open it and file it in the open file unless otherwise ordered. When the deposition is filed the clerk of court shall promptly give notice thereof to all parties.

Effect of failure to attend.

(g) *Failure to Attend or to Serve Subpoena; Expenses.*

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

Effect of failure to serve subpoena.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

Section 31. Rule 31. **Depositions of witnesses upon written interrogatories.**

Written interrogatories—service and notice.

(a) *Serving Interrogatories; Notice.* A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within 10 days thereafter a party so served may serve cross interrogatories upon the party proposing to take the deposition. Within 5 days thereafter the latter may serve redirect interrogatories upon a party who has served cross interrogatories. Within 3 days after being served with redirect interrogatories, a party may serve recross interrogatories upon the party proposing to take the deposition.

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Copies to officer taking deposition.

(b) *Officer to Take Responses and Prepare Record.* A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rule 30(c), (e), and (f), to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him.

Clerk of court to file and give notice.

(c) *Filing and Notice.* Upon receipt of a deposition the clerk of court shall open it and file it in the open file unless otherwise ordered. When the deposition is filed the clerk of court shall promptly give notice thereof to all parties.

Motions for orders to protect parties and deponents.

(d) *Orders for the Protection of Parties and Deponents.* After the service of interrogatories and prior to the taking of the testimony of the deponent, the court in which the action is pending, on motion promptly made by a party or a deponent, upon notice and good cause shown, may make any order specified in Rule 30 which is appropriate and just or an order that the deposition shall not be taken before the officer designated in the notice or that it shall not be taken except upon oral examination.

Effect of errors.

Section 32. Rule 32. **Effect of errors and irregularities in depositions.**

As to notice.

(a) *As to Notice:* All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

As to disqualification of officer.

(b) *As to Disqualification of Officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

As to taking of deposition.

(c) *As to Taking of Deposition.*

(1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

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(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(3) Objections to the form of written interrogatories submitted under Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other interrogatories and within 3 days after service of the last interrogatories authorized.

(d) *As to Completion and Return of Deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under Rules 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

As to completion and return of deposition.

Section 33. Rule 33. **Interrogatories to parties.**

Written interrogatories to parties—service.

Any party may serve upon any adverse party, who has been served with process or who has appeared, written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party. The interrogatories shall be answered separately and fully in writing under oath. The answers shall be signed by the person making them; and the party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories within 20 days after the service of interrogatories, unless the court, on motion and notice and for good cause shown, enlarges or shortens the time. Within 20 days after service of interrogatories a party may serve written objections thereto together with a notice of hearing the objections at the earliest practicable time. Answers to interrogatories to which objection is made shall be deferred until the objections are determined.

Answers.

Objections.

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Relation and use.

Interrogatories may relate to any matters which can be inquired into under Rule 26(b), and the answers may be used to the same extent as provided in Rule 26(d) for the use of the deposition of a party. Interrogatories may be served after a deposition has been taken, and a deposition may be sought after interrogatories have been answered, but the court, on motion of the deponent or the party interrogated, may make such protective order as justice may require. The number of interrogatories or of sets of interrogatories to be served is not limited except as justice requires to protect the party from annoyance, expense, embarrassment, or oppression. The provisions of Rule 30(b) are applicable for the protection of the party from whom answers to interrogatories are sought under this rule.

Section 34. Rule 34. **Discovery and production of documents and things for inspection, copying or photographing.**

Procedure for discovery and inspection.

Upon motion of any party showing good cause therefor and upon notice to all other parties, and subject to the provisions of Rule 30(b), the court in which an action is pending may (1) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 26(b) and which are in his possession, custody, or control; or (2) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon within the scope of the examination permitted by Rule 26(b). The order shall specify the time, place, and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just.

Section 35. Rule 35. **Physical and mental examination of persons.**

Physical or mental examination of party.

(a) *Order for Examination.* In an action in which the mental or physical condition of a party is in contro-

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versy, the court in which the action is pending may order him to submit to a physical or mental examination by a physician. The order may be made only on motion for good cause shown and upon notice to the party to be examined and to all other parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

Report of findings.

(b) *Report of Findings.*

(1) If requested by the person examined, the party causing the examination to be made shall deliver to him a copy of a detailed written report of the examining physician setting out his findings and conclusions. After such request and delivery the party causing the examination to be made shall be entitled upon request to receive from the party examined a like report of any examination, previously or thereafter made, of the same mental or physical condition. If the party examined refuses to deliver such report the court on motion and notice may make an order requiring delivery on such terms as are just, and if a physician fails or refuses to make such a report he shall be deemed to be in contempt of court.

Waiver of privilege.

(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege he may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him in respect to the same mental or physical condition.

Section 36. Rule 36. **Admission of facts and of genuineness of documents.**

Request for admission of documents.

(a) *Request for Admission.* After commencement of an action a party may serve upon any other party, who has been served with process or who has appeared, a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request, or of the truth of any relevant matters of fact set forth in the request. Copies of the documents shall be served with the request unless copies have already been furnished. Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than 20 days after service thereof or within such shorter

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or longer time as the court may allow on motion and notice, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part, together with a notice of hearing the objections at the earliest practicable time. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part or a qualification of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder.

Denials.

Written objections.

Effect of admission.

(b) *Effect of Admission.* Any admission made by a party pursuant to such request is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may be used against him in any other proceeding.

Section 37. Rule 37. **Refusal to make discovery; consequences.**

Procedure and effect on refusal to answer.

(a) *Refusal to Answer.* If a party or other deponent refuses to answer any question propounded upon oral examination, the examination shall be completed on other matters or adjourned, as the proponent of the question may prefer. Thereafter, on reasonable notice to all persons affected thereby, he may apply to the court in which the action is pending, or if the deposition is being taken for use in an action pending in another state or country to the district court in Montana where the deposition is being taken, for an order compelling an answer. Upon the refusal of a deponent to answer any interrogatory submitted under Rule 31 or upon the refusal of a party to answer any interrogatory submitted under Rule 33, the proponent of the question may on like notice make like application for such an order. If the motion is granted and if the court finds that the refusal was without substantial justification the court shall require the refusing party or deponent and the party or attorney advising the refusal or

Costs and fees.

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either of them to pay to the examining party the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees. In an action pending in the State of Montana, if the motion is denied and if the court finds that the motion was made without substantial justification, the court shall require the examining party or the attorney advising the motion or both of them to pay to the refusing party or witness the amount of the reasonable expenses incurred in opposing the motion, including reasonable attorney's fees.

(b) *Failure to Comply with Order.* Contempt.

(1) *Contempt.* If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the court so directing, the refusal may be considered a contempt of that court.

(2) *Other Consequences.* If any party or an officer or managing agent of a party refuses to obey an order made under subdivision (a) of this rule requiring him to answer designated questions, or an order made under Rule 34 to produce any document or other thing for inspection, copying, or photographing or to permit it to be done, or to permit entry upon land or other property, or an order made under Rule 35 requiring him to submit to a physical or mental examination, the court may make such orders in regard to the refusal as are just, and among others the following: Other consequences.

(i) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the physical or mental condition of the party, or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order; Matters established.

(ii) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of physical or mental condition; Exclusion of evidence.

(iii) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party; Stay, dismissal or default.

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Arrest.

(iv) In lieu of any of the foregoing orders or in addition thereto, an order directing the arrest of any party or agent of a party for disobeying any of such orders except an order to submit to a physical or mental examination.

Costs and fees.

(c) *Expenses on Refusal to Admit.* If a party, after being served with a request under Rule 36 to admit the genuineness of any documents or the truth of any matters of fact, serves a sworn denial thereof and if the party requesting the admissions thereafter proves the genuineness of any such document or the truth of any such matter of fact, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making such proof, including reasonable attorney's fees. Unless the court finds that there were good reasons for the denial or that the admissions sought were of no substantial importance, the order shall be made.

Effect of failure to attend or serve answers.

(d) *Failure of Party to Attend or Serve Answers.* If a party or an officer or managing agent of a party wilfully fails to appear before the officer who is to take his deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 33, after proper service of such interrogatories, the court on motion and notice may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party.

CHAPTER 6. TRIALS

Section 38. Rule 38. **Jury trial of right.**

Right of trial by jury preserved.

(a) *Right Reserved.* The right of trial by jury as declared by the Constitution of the State of Montana or as given by a statute of the State of Montana shall be preserved to the parties inviolate.

Demand.

(b) *Demand.* Any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be indorsed upon a pleading of the party.

Specification of issues.

(c) *Same: Specification of Issues.* In his demand a

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party may specify the issues which he wishes so tried; otherwise he shall be deemed to have demanded trial by jury for all the issues so triable. If he has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

Waiver.

(d) *Waiver.* The failure of a party to serve a demand as required by this rule and to file it as required by Rule 5(d) constitutes a waiver by him of trial by jury. A waiver of trial by jury is not revoked by an amendment of a pleading asserting only a claim or defense arising out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.

Section 39. Rule 39. **Trial by jury or by the court.**

Trial by jury—when.

(a) *By Jury.* When trial by jury has been demanded as provided in Rule 38, the action shall be designated upon the register of actions as a jury action. The trial of all issues so demanded shall be by jury, unless (1) the parties or their attorneys of record, by written stipulation filed with the court or by an oral stipulation made in open court and entered in the record, consent to trial by the court sitting without a jury or (2) the court upon motion or of its own initiative finds that a right of trial by jury of some or all of those issues does not exist.

Trial by court.

(b) *By the Court.* Issues not demanded for trial by jury as provided in Rule 38 shall be tried by the court; but, notwithstanding the failure of a party to demand a jury in an action in which such a demand might have been made of right, the court upon motion or of its own initiative may on ten days' notice to the parties order a trial by a jury of any or all issues.

Advisory jury.

Trial by consent.

(c) *Advisory Jury and Trial by Consent.* In all actions not triable of right by a jury the court upon motion or of its own initiative may try any issue with an advisory jury or, the court, with the consent of both parties, may order a trial with a jury whose verdict has the same effect as if trial by jury had been a matter of right.

Section 40. Rule 40. **Assignment of cases for trial.**

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Rule—trial calendar.

The district courts shall provide by rule for the placing of actions upon the trial calendar (1) without request of the parties or (2) upon request of a party and notice to the other parties or (3) in such other manner as the court deem expedient. Precedence shall be given to actions entitled thereto by any statute of the State of Montana.

Section 41. Rule 41. **Dismissal of actions.**

Voluntary dismissal.

(a) *Voluntary Dismissal: Effect Thereof.*

(1) *By Plaintiff; by Stipulation.* Subject to the provisions of Rule 23(c), of Rule 66, and of any statute of the State of Montana, an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice.

Notice.

Stipulation.

Dismissal by order of court.

(2) *By Order of Court.* Except as provided in paragraph (1) of this subdivision of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.

Counterclaim.

Involuntary dismissal.

(b) *Involuntary Dismissal: Effect Thereof.* For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against him. After the plaintiff has completed the presentation of his evidence, the defendant, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. In an action tried by the court without a jury the court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judg-

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ment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in Rule 52(a). Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction or for lack of an indispensable party, operates as an adjudication upon the merits.

Dismissal of counterclaim, cross-claim, or third party claim.

(c) *Dismissal of Counterclaim, Cross-Claim, or Third Party Claim.* The provisions of this rule apply to the dismissal of any counterclaim, cross-claim, or third-party claim. A voluntary dismissal by the claimant alone pursuant to paragraph (1) of subdivision (a) of this rule shall be made before a responsive pleading is served, or, if there is none, before the introduction of evidence at the trial or hearing.

Costs and stay of proceedings.

(d) *Costs of Previously-Dismissed Action.* If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

Section 42. Rule 42. **Consolidation; separate trials.**

Consolidation.

(a) *Consolidation.* When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

Separate trials.

(b) *Separate Trials.* The court in furtherance of convenience or to avoid prejudice may order a separate trial of any claim, cross-claim, counter-claim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.

Section 43. Rule 43. **Evidence.**

Evidence.

Scope of examination and cross-examination.

(b) *Scope of Examination and Cross-Examination.* A party may interrogate any unwilling or hostile witness by leading questions. Either party, if he shall call as a wit-

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ness in his behalf, the opposite party, an employee or agent of the opposite party, or an officer, director, employee or agent of a public or private corporation, or of a partnership or association which is an opposite party, or any person who at the time of the happening of the transaction out of which the suit or proceeding grew, was an employee or agent of the opposite party, or an officer, director, employee or agent of a public or private corporation, or of a partnership or association which is an opposite party, shall have the right to examine and cross-examine such witness the same as if he were called by the opposite party; and the answers of such witness shall not interfere with the right of such party to introduce evidence upon any issue involved in such suit or proceeding, and the party so calling and examining such witness shall not be bound to accept such answers as true. The witness thus called may be contradicted and impeached by or on behalf of the opposite party, as well as by or on behalf of the party calling the witness, and may be examined by the opposite party upon the subject matter of his examination in chief, but any such examination by the opposite party shall be under the rules of direct examination unless the witness is unwilling or hostile with reference to the opposite party, in which case, the court may, in its discretion, allow the witness to be cross-examined.

Excluded evidence— offer of proof.

(c) *Record of Excluded Evidence.* In an action tried by a jury, if an objection to a question propounded to a witness is sustained by the court, the examining attorney may make a specific offer of what he expects to prove by the answer of the witness. The court may require the offer to be made out of the hearing of the jury. The court may add such other or further statement as clearly shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. In actions tried without a jury the same procedure may be followed, except that the court upon request shall take and report the evidence in full, unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged.

Affirmation in lieu of oath.

(d) *Affirmation in Lieu of Oath.* Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

Evidence on motions.

(e) *Evidence on Motions.* Except as otherwise pro-

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vided in Rule 56, when a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

Section 44. Rule 44. **Proof of official record.**

Authentication of copy of official record or entry.

(a) *Authentication of Copy.* An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

Proof of lack of official record.

(b) *Proof of Lack of Record.* A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry.

Other proof.

(c) *Other proof.* This rule does not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

Section 45. Rule 45. **Subpoena.** Subpoena.

For attendance of witnesses; form and issuance.

(a) *For Attendance of Witnesses; Form; Issuance.* Every subpoena shall be issued by the clerk under the seal

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of the court, shall state the name of the court and the title of the action, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. The clerk shall issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in before service.

For production of documentary evidence.

(b) *For Production of Documentary Evidence.* A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents or tangible things.

Service.

(c) *Service.* A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service is made by exhibiting the original and delivering a true copy to the witness personally, giving or offering to him at the same time, if demanded by him, the fees to which he is entitled for travel to and from the place designated, and one day's attendance there. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance.

Subpoena for taking depositions; issuance.

(d) *Subpoena for Taking Depositions; Place of Examination.*

(1) Proof of service of a notice to take a deposition as provided in Rules 30(a) and 31(a), or the presentation of a stipulation for the taking thereof, constitutes a sufficient authorization for the issuance by the clerk of the district court for the county in which the action is pending, or by the clerk of the district court for the county in which a deposition is being taken to be used in an action pending in another state or country, of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce designated books, papers, documents, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination per-

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mitted by Rule 26(b), but in that event the subpoena will be subject to the provisions of subdivision (b) of Rule 30 and subdivision (b) of this Rule 45, except that if the action is pending out of the state, the court issuing the subpoena shall have the authority to enforce such rules.

Residence.

(2) A resident of the state may be required to attend an examination only in the county wherein he resides or is employed or transacts his business in person. A non-resident of the state may be required to attend in any county of the state wherein he is served with a subpoena.

Subpoena for hearing or trial.

(e) *Subpoena for a Hearing or Trial.* At the request of any party subpoenas for attendance at a hearing or trial shall be issued as provided by Rule 45(a), and such subpoenas for a hearing or trial in a district court may be served at any place within the state.

Contempt.

(f) *Contempt.* Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court from which the subpoena issued.

Section 46. Rule 46. **Exceptions unnecessary.**

Formal exceptions unnecessary.

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him.

Section 47. Rule 47. **Jurors.**

Jurors examination.

(a) *Examination of Jurors.* The court shall permit the parties or their attorneys to conduct the examination of prospective jurors under its supervision. The court may supplement the examination by such further inquiry as it deems proper. Challenges for cause must be tried by the court. The juror challenged and any other person may be examined as a witness on the trial of the challenge.

Challenges for cause tried by court.

Initial panel.

(b) *Manner of Selection and Order of Examination of Jurors.* From the entire jury panel, an initial panel of 20 jurors shall be called in the first instance, and before any voir dire examination of the jury shall be had. Exam-

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Examination by plaintiff.

ination of all jurors in the initial panel shall be completed by the plaintiff before examination by the defendant. If challenges for cause are allowed, an additional juror shall be called from the entire panel immediately upon the allowance of challenge, to provide a full initial panel of 20 jurors, whose examination shall be completed before any

Peremptory challenges.

peremptory challenges are made. When the voir dire examination has been completed, each side shall have four peremptory challenges, and they shall be exercised by the plaintiff first striking one, the defendant then striking one, and so on, until each side has exhausted or waived its right. In event one or more alternate jurors are called, the next jurors remaining in the initial panel, if any, shall be called by the clerk to be the alternate jurors. In event all jurors remaining of the original initial panel of 20 jurors, including those substituted for those jurors excused for cause, have been subjected to peremptory challenge, then the clerk shall call additional jurors from the

Additional jurors.

remainder of the jury panel to provide alternate jurors who will be subject to challenge as provided by law. In event there is more than one party defendant, and should it appear that each defendant is entitled to peremptory challenges, then the original panel shall be increased to provide four additional jurors for each defendant who is

Clerk to keep record.

entitled to exercise peremptory challenges. The clerk shall keep a record of the order in which jurors are called, and in event the entire initial panel has not been exhausted by challenges, the court shall excuse sufficient of the last called jurors until a jury of twelve persons and the determined number of alternates shall remain to make up the trial jury.

Alternate jurors.

(c) *Alternate Jurors.* The court may direct that one or two jurors in addition to the regular panel be called and impanelled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury arrives at its verdict, become unable or disqualified to perform their duties. An alternate juror shall not join the jury in its deliberation unless called upon by the court to replace a member of the jury. His conduct during the period in which the jury is considering its verdict shall be regulated by instructions of the trial court. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall

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take the same oath, and shall have the same functions, powers, facilities, and privileges as the principal jurors. An alternate juror who does not replace a principal juror shall be discharged after the jury arrives at its verdict. If one or two alternate jurors are called each party is entitled to one peremptory challenge in addition to those otherwise allowed by subdivision (b) of this rule. The additional peremptory challenge may be used only against an alternate juror, and the other peremptory challenges allowed by law shall not be used against the alternates.

Section 48. Rule 48. **Juries—Verdict.**

Two-thirds may render verdict.

At least two-thirds in number of any jury may render a verdict or finding, and such verdict or finding so rendered shall have the same force and effect as if all such jury concurred therein. The parties may stipulate that the jury shall consist of less number than twelve.

Section 49. Rule 49. **Special verdicts and interrogatories.**

Special verdicts.

(a) *Special Verdicts.* The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his right to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

Written questions.

Instruction by court.

Demand—submission of issue.

General verdict.

(b) *General Verdict Accompanied by Answer to Interrogatories.* The court may submit to the jury, together with appropriate forms for a general verdict, written in-

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Written interrogatories.

terrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the court shall direct the entry of the appropriate judgment upon the verdict and answers. When the answers are consistent with each other but one or more is inconsistent with the general verdict, the court may direct the entry of judgment in accordance with the answers, notwithstanding the general verdict or may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, the court shall not direct the entry of judgment but may return the jury for further consideration of its answers and verdict or may order a new trial.

Instruction by court.

Court to direct entry of judgment.

Inconsistencies—further consideration or new trial.

Motion for directed verdict—when made—effect.

Section 50. Rule 50. **Motion for a directed verdict.**

(a) *When Made: Effect.* A party who moves for a directed verdict at the close of the evidence offered by an opponent may offer evidence in the event that the motion is not granted, without having reserved the right so to do and to the same extent as if the motion had not been made. A motion for a directed verdict which is not granted is not a waiver of trial by jury even though all parties to the action have moved for directed verdicts. A motion for a directed verdict shall state the specific grounds therefor.

Reservation of decision on motion.

(b) *Reservation of Decision on Motion.* Whenever a motion for a directed verdict made at the close of all the evidence is denied or for any reason is not granted, the court is deemed to have submitted the action to the jury subject to a later determination of the legal questions raised by the motion. Within 10 days after the reception of a verdict, a party who has moved for a directed verdict may move to have the verdict and any judgment entered thereon set aside and to have judgment entered in accordance with his motion for a directed verdict; or if a verdict was not returned such party, within 10 days after the jury has been discharged, may move for judg-

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ment in accordance with his motion for a directed verdict. A motion for a new trial may be joined with this motion, or a new trial may be prayed for in the alternative. If a verdict was returned the court may allow the judgment to stand or may reopen the judgment and either order a new trial or direct the entry of judgment as if the requested verdict had been directed. If no verdict was returned the court may direct the entry of judgment as if the requested verdict had been directed or may order a new trial.

Section 51. Rule 51. **Instructions to jury; objection.**

Proposed instructions.

The court may, during the trial or at the close of the evidence, request each of the parties to submit proposed written instructions on the law of the case. No party may assign as error the failure to instruct on any point of law unless he offers an instruction thereon. The court shall rule upon the proposed instructions and may prepare other written instructions to be given of its own motion and shall submit to the parties the instructions that will be given and provide opportunity to make objections.

Objections.

Objections made shall specify and state the particular grounds on which the instruction is objected to and it shall not be sufficient in stating the ground of such objection to state generally the instruction does not state the law or is against the law, but such ground of objection shall specify particularly wherein the instruction is insufficient or does not state the law, or what particular clause therein is objected to.

Grounds.

Rulings—exceptions unnecessary.

All objections and rulings thereon shall be made out of the presence of the jury. No exceptions are necessary to the rulings of the court on the giving or the refusal of instructions.

Court shall read to jury.

The court shall read to the jury the instructions given before the arguments of counsel are commenced.

Section 52. Rule 52. **Findings by the court.**

Findings by court—effect.

(a) *Effect.* In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon and direct the entry of the appropriate judgment; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. The findings of a master, to the extent that

Conclusions of law.

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Adoption of findings by master.

the court adopts them, shall be considered as the findings of the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41(b).

Amendment of findings.

(b) *Amendment.* Upon motion of a party made not later than 10 days after entry of judgment the court may amend its findings or make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial pursuant to Rule 59.

Masters: appointment, compensation.

Section 53. Rule 53. **Masters.**

(a) *Appointment and Compensation.* Each district court with the concurrence of a majority of all the judges thereof may appoint one or more standing masters for its district, and the court in which any action is pending may appoint a special master therein. As used in these rules the word "master" includes a referee, an auditor, and an examiner. The compensation to be allowed to a master shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action, which is in the custody and control of the court as the court may direct. The master shall not retain his report as security for his compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.

"Master" defined.

Reference.

(b) *Reference.* A reference to a master shall be the exception and not the rule. In actions to be tried by a jury, a reference shall be made only when the issues are complicated; in actions to be tried without a jury, save in matters of account, a reference shall be made only upon a showing that some exceptional condition requires it.

Powers.

(c) *Powers.* The order of reference to the master may specify or limit his powers and may direct him to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the

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order, the master has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. He may require the production before him of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. He may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may himself examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 43(c) for a court sitting without a jury.

(d) *Proceedings.* Proceedings.

(1) *Meetings.* When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the court for an order requiring the master to speed the proceedings and to make his report. If a party fails to appear at the time and place appointed, the master may proceed *ex parte*, or, in his discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) *Witnesses.* The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, he may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45. Witnesses.

(3) *Statement of Accounts.* When matters of accounting are in issue before the master, he may prescribe the form in which the accounts shall be submitted and in any Statement of accounts.

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proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as he directs.

(e) *Report.*

Report of master.

(1) *Contents and Filing.* The master shall prepare a report upon the matters submitted to him by the order of reference and, if required to make findings of fact and conclusions of law, he shall set them forth in the report.

Filing.

He shall file the report with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a

Transcript.

transcript of the proceedings and of the evidence and the

Clerk to mail notice.

original exhibits. The clerk shall forthwith mail to all parties notice of the filing.

In non-jury actions— court to accept findings.

(2) *In Non-Jury Actions.* In an action to be tried without a jury the court shall accept the master's findings of fact unless clearly erroneous. Within 10 days after being served with notice of the filing of the report

Objections.

any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion

Hearing.

and upon notice as prescribed in Rule 6(d). The court after hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

In jury actions— findings as evidence.

(3) *In Jury Actions.* In an action to be tried by a jury the master shall not be directed to report the evidence. His findings upon the issues submitted to him are admissible as evidence of the matters found and may be read to the jury, subject to the ruling of the court upon any objections in point of law which may be made to the report.

Stipulations as to findings.

(4) *Stipulations as to Findings.* The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only

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questions of law arising upon the report shall thereafter be considered.

(5) *Draft Report.* Before filing his report a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions. Draft of master's report.

CHAPTER 7. JUDGMENT. Judgment.

Section 54. Rule 54. **Judgments; costs.**

(a) *Definition; Form.* A judgment is the final determination of the rights of the parties in an action or proceeding and as used in these rules includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings, the report of a master, or the record of prior proceedings. Definition.

(b) *Judgment Upon Multiple Claims or Involving Multiple Parties.* When multiple claims for relief or multiple parties are involved in an action, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates less than all the claims or the rights and liabilities of less than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties. Judgment upon multiple claims—multiple parties.

(c) *Demand for Judgment.* A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings. Demand for judgment.

(d) *Costs.* Except when express provision therefor is made either in a statute of the State of Montana or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs; but costs against the State of Montana, its officers, agencies, and Costs.

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political subdivisions shall be imposed only to the extent permitted by law.

Default entry.

Section 55. Rule 55. **Default.**

(a) *Entry.* When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter his default.

Judgment by default.

(b) *Judgment.* Judgment by default may be entered as follows:

By clerk.

(1) *By the Clerk.* When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the clerk upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount and costs against the defendant, if he has been defaulted for failure to appear and if he is not an infant or incompetent person, and has been personally served, otherwise than by publication or personal service outside of this state.

By the court.

(2) *By the Court.* In all other cases the party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against an infant or incompetent person unless represented in the action by a general guardian, committee, conservator, or other such representative, or guardian *ad litem,* who has appeared therein. If the party against whom judgment by default is sought has appeared in the action, he (or, if appearing by representative, his representative) shall be served with written notice of the application for judgment at least three days prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper and shall accord a right of trial by jury to the parties when and as required by any statute of the State of Montana.

Setting aside entry of default.

(c) *Default; Setting Aside; Extension of Time by Court or Stipulation of Parties.* For good cause shown the court may set aside an entry of default and, if a judg-

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ment by default has been entered, may likewise set it aside in accordance with Rule 60(b). No default of any party shall be entered, and no default judgment shall be entered against any party, except upon application of the opposing party. Before entering the default of any person who has been served outside the boundaries of the State of Montana, the court may, in its discretion, appoint a representative for any such person even though such person has not appeared. Any stipulation for extension of time between the parties or their counsel, whether in writing or made verbally before the court, shall be effective to extend the time for serving and/or filing any appearance, motion, pleading or proceeding, according to the terms of such stipulation. In any case if a party in default shall serve and file his appearance, motion, pleading or proceeding prior to application to the clerk for default, then such defaulting party shall not thereafter be considered in default as to that particular appearance, motion, pleading, or proceeding.

(d) *Plaintiffs, Counterclaimants, Cross-Claimants.* The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim. In all cases a judgment by default is subject to the limitations of Rule 54(c).

Section 56. Rule 56. **Summary judgment.**

Summary judgment: for claimant.

(a) *For Claimant.* A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move for a summary judgment in his favor upon all or any part thereof.

For defending party.

(b) *For Defending Party.* A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move for a summary judgment in his favor as to all or any part thereof.

Motion and proceedings.

(c) *Motion and Proceedings Thereon.* The motion shall be served at least 10 days before the time fixed for the hearing. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file

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show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Affidavits shall not be considered for any purpose on motion for summary judgment. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

Trial where case not fully adjudicated on motion.

(d) *Case Not Fully Adjudicated on Motion.* If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

Section 57. Rule 57. **Declaratory judgments.**

Procedure—declaratory judgment.

The procedure for obtaining a declaratory judgment pursuant to Sections 93-8901 to 93-8916, both inclusive, of the Revised Codes of Montana, 1947, shall be in accordance with these rules, and the right to trial by jury may be demanded under the circumstances and in the manner provided in Rules 38 and 39, subject to the provisions of Section 93-8909, Revised Codes of Montana, 1947. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

Section 58. Rule 58. **Entry of judgment.**

Clerk to enter judgment as court directs.

Unless the court otherwise directs and subject to the provisions of Rule 54(b), judgment upon the verdict of a jury shall be entered forthwith by the clerk; but the court shall direct the appropriate judgment to be entered upon a special verdict or upon a general verdict accompanied by answers to interrogatories returned by a jury

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pursuant to Rule 49. When the court directs that a party recover only money or costs or that all relief be denied, the clerk shall enter judgment forthwith upon receipt by him of the direction; but when the court directs entry of judgment for other relief, the judge shall promptly settle or approve the form of the judgment and direct that it be entered by the clerk. The entry of the judgment shall not be delayed for the taxing of costs.

New trial.

Section 59. Rule 59. **New trials; amendment of judgments.**

Grounds.

(a) *Grounds.* A new trial may be granted to all or any of the parties and on all or part of the issues for any of the reasons provided by the statutes of the State of Montana. On motion for a new trial in an action tried without a jury, the court may take additional testimony, amend the findings of fact and conclusions of law or make new findings and conclusions, set aside, vacate, modify or confirm any judgment that may have been entered or direct the entry of a new judgment.

Time for motion

(b) *Time for Motion.* A motion for a new trial shall be served not later than 10 days after service of notice of the entry of the judgment.

Affidavits.

(c) *Time for Serving Affidavits.* When a motion for new trial is based upon affidavits they shall be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

Court may order new trial.

(d) *On Initiative of Court.* Not later than 10 days after entry of judgment the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party, and in the order shall specify the grounds therefor.

Motion to alter or amend judgment.

(e) *Motion to Alter or Amend a Judgment.* A motion to alter or amend the judgment shall be served not later than 10 days after service of notice of the entry of the judgment.

Section 60. Rule 60. **Relief from judgment or order.**

Correction—clerical mistakes.

(a) *Clerical Mistakes.* Clerical mistakes in judgments,

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orders or other parts of the record, and in pleadings, and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders.

Grounds for relief from judgment.

(b) *Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc.* On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as may be provided by law, or to set aside a judgment for fraud upon the court.

Section 61. Rule 61. **Harmless error.**

Harmless error.

No error in either the admission or the exclusion of evidence and no error or defect in any ruling or order or in anything done or omitted by the court or by any of the parties is ground for granting a new trial or for setting aside a verdict or for vacating, modifying or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

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Section 62. Rule 62. **Stay of proceedings to enforce a judgment.**

Stay of proceedings on judgment.

(a) *Stay of Proceedings to Enforce a Judgment—Stay Upon Entry of Judgment.* In a district court action, execution or other proceedings to enforce a judgment may issue immediately upon the entry of judgment, unless the court in its discretion and on such conditions for the security of the adverse party as are proper, otherwise directs. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action, shall not be stayed during the period after its entry and until the appeal is taken or during the pendency of an appeal. The provisions of subdivision (c) of this rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

Stay on motion.

(b) *Stay on Motion for New Trial or for Judgment.* In its discretion and on such conditions for the security of the adverse party as are proper, the district court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b).

Injunction pending appeal.

(c) *Injunction Pending Appeal.* When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the district court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

Stay upon appeal.

(d) *Stay Upon Appeal.* When an appeal is taken the appellant by giving a supersedeas bond may obtain a stay subject to the exceptions contained in subdivision (a) of this rule. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal, as the case may be. The stay is effective when the supersedeas bond is approved by the court.

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Stay in favor of state.

(e) *Stay in Favor of the State of Montana or Agency Thereof.* When an appeal is taken by the State of Montana or an officer or agency or governmental subdivision thereof, and the operation or enforcement of the judgment is stayed, no security shall be required from the appellant. In all cases, the parties may by written stipulation waive the filing of security.

Power of appellate court not limited.

(g) *Power of Appellate Court Not Limited.* The provisions in this rule do not limit any power of the Supreme Court of the State of Montana or of a justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

Stay of judgment—multiple claims.

(h) *Stay of Judgment Upon Multiple Claims.* When a court has ordered a final judgment on some but not all of the claims presented in the action under the conditions stated in Rule 54 (b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

CHAPTER 8. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS.

Section 63. Rule 64. **Seizure of person or property.**

Seizure of person or property.

At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by law.

Injunctions.

Section 64. Rule 65. **Injunctions.**

The procedure for granting restraining orders and temporary and permanent injunctions shall be as provided by statute.

Procedure—receivers.

Section 65. Rule 66. **Receivers.**

An action wherein a receiver has been appointed shall not be dismissed except by order of the court. The prac-

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tice in the appointment of and administration of estates by receivers or other similar officers shall be in accordance with the Montana statutes and with the practice heretofore followed in the courts of this state. In all other respects, the action in which the appointment of the receiver is sought or which is brought by or against a receiver is governed by these rules.

Section 66. Rule 67. **Deposit in court.**

Deposit in court.

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing. Money paid into court under this rule shall be deposited and withdrawn in accordance with the provisions of Chapter 45, Title 93, Revised Codes of Montana, 1947.

Section 67. Rule 68. **Offer of judgment.**

Offer of judgment—time for service.

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property or to the effect specified in his offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon judgment shall be entered. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer.

Refusal.

Effect—costs.

Section 68. Rule 69. **Execution.**

Aid of execution.

The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of and supplementary to execution shall be in accordance with the statutes of the State of Montana. In aid of the judgment or execution, the judgment creditor or his successor in interest when that interest appears of

Examination.

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record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions.

Section 69. Rule 70. **Judgment for specific acts; vesting title.**

Judgment—specific acts.

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the court may order the clerk to issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment. The court may also in proper cases adjudge the party in contempt. If real or personal property is within the state, the court in lieu of directing a conveyance thereof may enter a judgment divesting the title of any party and vesting it in others and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk.

Vesting title.

Section 70. Rule 71. **Process in behalf of and against persons not parties.**

Process—persons not parties.

When an order is made in favor of a person who is not a party to the action, he may enforce obedience to the order by the same process as if he were a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, he is liable to the same process for enforcing obedience to the order as if he were a party.

CHAPTER 9. APPEALS

Section 71. Rule 72. **Appeal from a district court to the supreme court.**

Appeals—supreme court.

When an appeal is permitted by law from a district court to the Supreme Court of Montana, an appeal shall be taken, perfected, and prosecuted pursuant to the provisions of Chapter 80 of Title 93, Code of Civil Procedure,

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Revised Codes of Montana, 1947, as amended, except to the extent that such provisions are superseded by Rule 62, and pursuant to the rules of the Supreme Court of Montana governing such an appeal.

CHAPTER 10. DISTRICT COURTS AND CLERKS.

Section 72. Rule 77. **District courts and clerks.**

District courts always open.

(a) *District Courts Always Open.* The district courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, and rules.

Trials—open court.

(b) *Trials and Hearings; Orders in Chambers.* All trials upon the merits shall be conducted in open court and so far as convenient in a regular court room. All other acts or proceedings may be done or conducted by a judge in chambers, without the attendance of the clerk or other court officials and at any place either within or without the district; but no hearing, other than one *ex parte,* shall be conducted outside the district without the consent of all parties affected thereby.

Orders of clerk subject to court order.

(c) *Clerk's Office and Orders by Clerk.* All motions and applications in the clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but his action may be suspended or altered or rescinded by the court upon cause shown.

Notice of entry of judgment—service.

(d) *Notice of Entry of Judgment Served.* Within 10 days after entry of judgment in an action in which an appearance has been made, notice of such entry, together with a copy of such judgment or a general description of the nature and amount of relief and damages thereby granted, shall be served by the prevailing party upon the adverse party.

Section 73. Rule 80. **Stenographer; stenographic report or transcript as evidence.**

Testimony provable by transcript.

Whenever the testimony of a witness at a trial or hearing which was stenographically reported is admissible in evidence at a later trial, it may be proved by the transcript thereof duly certified by the person who reported the testimony.

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CHAPTER 11. GENERAL PROVISIONS

Section 74. Rule 81. **Applicability in general.**

Excepted special proceedings.

(a) *Special Statutory Proceedings.* The statutory proceedings listed in Table A and any other special statutory proceeding, whether or not listed in Table A, are excepted from these rules insofar as they are inconsistent or in conflict with the procedure and practice provided by these rules.

Appeals to district court.

(b) *Appeals to District Courts.* These rules do not supersede the provisions of statutes relating to appeals to or review by the district courts, but shall govern procedure and practice relating thereto insofar as these rules are not inconsistent with such statutes.

Rules incorporated into statutes.

(c) *Rules Incorporated into Statutes.* Where any statute heretofore or hereafter enacted, whether or not applicable to a special statutory proceeding or listed in any table appended hereto, provides that any act in a civil proceeding in a district court shall be done in the manner provided by law or as in a civil action or as provided by any statute superseded by these rules, such act shall be done in accordance with these rules and the procedure thereon shall conform to these rules, insofar as practicable.

Section 75. Rule 82. **Jurisdiction and venue unaffected.**

Jurisdiction and venue not affected.

Except as provided in Rule 4 these rules shall not be construed to extend or limit the jurisdiction of the district courts of Montana or the venue of actions therein.

Section 76. Rule 83. **Rules by district courts.**

Rules— district courts.

Each district court, upon agreement of the judges or a majority thereof, may from time to time make and amend rules governing its practice not inconsistent with these rules or other rules prescribed by the Supreme Court. Copies of rules and amendments so made by any district court shall upon their promulgation be furnished to the Supreme Court of this state. In all cases not provided for by rule, the district courts may regulate their practice in any manner not inconsistent with these rules.

Section 77. Rule 84. **Forms.**

Forms sufficient under rules.

The forms contained in the Appendix of Forms are sufficient under the rules and are intended to indicate the

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simplicity and brevity of statement which the rules contemplate.

Section 78. Rule 85. **Title.**

Title.

These rules shall be known as the Montana Rules of Civil Procedure and may be cited as M. R. Civ. P.

Section 79. Rule 86. **Effective date; statutes superseded.**

Effective date.

(a) *Effective Date and Application to Pending Proceedings.* These rules will take effect on January 1, 1962. They govern all proceedings and actions brought after they take effect, and also all further proceedings in actions then pending, except to the extent that in the opinion of the court their application in a particular action pending when the rules take effect would not be feasible, or would work injustice, in which event the procedure existing at the time the action was brought applies.

Statutes superseded.

(b) *Statutes Superseded.* Upon the taking effect of these rules all statutes and parts of statutes in conflict herewith and the statutes listed in Tables B and C are superseded in respect of practice and procedure in the district courts.

Section 80. **Appendix of forms.**

Appendix of forms.

Form 1. SUMMONS — OFFICIAL FORM

IN THE DISTRICT COURT OF THE ..... JUDICIAL DISTRICT OF THE STATE OF MONTANA, IN AND FOR THE COUNTY OF.....

A. B.,		Plaintiff	SUMMONS
	vs.		
C. D.,		Defendant	

The State of Montana to the above-named defendant:

You are hereby summoned to answer the complaint in this action which is filed in the office of the clerk of this court, a copy of which is herewith served upon you, and to file your answer and serve a copy thereof upon the plaintiff's attorney within twenty days after the service of this summons, exclusive of the day of service; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

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Appendix of forms—continued.

Witness my hand and the seal of said court, this .....

day of .....

E. F.

Attorney for Plaintiff,

.....

(Address)

.....Montana.

Form 2. COMPLAINT ON A PROMISSORY NOTE.

1. Defendant on or about June 1, 1958, executed and delivered to plaintiff a promissory note [in the following words and figures: (here set out the note verbatim)]; [a copy of which is hereto annexed as Exhibit A]; [whereby defendant promised to pay to plaintiff or order on June 1, 1959, the sum of ..... dollars with interest thereon at the rate of.....per cent per annum].[1]

[1] The pleader may use the material in one of the three sets of brackets. This choice will depend upon whether he desires to plead the document verbatim, or by exhibit, or according to its legal effect.

2. Defendant owes to plaintiff the amount of said note and interest.

Wherefore plaintiff demands judgment against defendant for the sum of.....dollars, interest, and costs.

Form 3. COMPLAINT ON AN ACCOUNT

Defendant owes plaintiff.....dollars according to the account hereto annexed as Exhibit A.

Wherefore plaintiff demands judgment against defendant for the sum of.....dollars, interest, and costs.

Form 4. COMPLAINT FOR GOODS SOLD AND DELIVERED.

Defendant owes plaintiff.....dollars for goods sold and delivered by plaintiff to defendant between June 1, 1959, and December 1, 1959.

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Appendix of forms—continued.

Wherefore plaintiff demands judgment against defendant for the sum of.....dollars, interest, and costs.

Form 5. COMPLAINT FOR MONEY LENT.

Defendant owes plaintiff.....dollars for money lent by plaintiff to defendant on June 1, 1959, which is now due.

Wherefore plaintiff demands judgment against defendant for the sum of.....dollars, interest, and costs.

Form 6. COMPLAINT FOR MONEY PAID BY MISTAKE.

Defendant owes plaintiff.....dollars for money paid by plaintiff to defendant by mistake on June 1, 1959, under the following circumstances; (stating the circumstances with particularity. See Rule 9(b)).

Wherefore plaintiff demands judgment against defendant for the sum of.....dollars, interest, and costs.

Form 7. COMPLAINT FOR MONEY HAD AND RECEIVED.

Defendant owes plaintiff ten thousand dollars for money had and received from one G. H. on June 1, 1959, to be paid by defendant to plaintiff.

Wherefore plaintiff demands judgment against defendant for the sum of ten thousand dollars, interest, and costs.

Form 8. COMPLAINT FOR NEGLIGENCE.

1. On June 1, 1959, in a public highway called State Street, in Helena, Montana, defendant negligently drove a motor vehicle against the plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of.....dollars.

Wherefore plaintiff demands judgment against defendant in the sum of.....dollars and costs.

Form 9. COMPLAINT FOR NEGLIGENCE WHERE

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Appendix of forms—continued.

PLAINTIFF IS UNABLE TO DETERMINE DEFINITELY WHETHER THE PERSON RESPONSIBLE IS C. D. OR E. F. OR WHETHER BOTH ARE RESPONSIBLE AND WHERE HIS EVIDENCE MAY JUSTIFY A FINDING OF WILFULNESS OR OF RECKLESSNESS OR OF NEGLIGENCE.

1. On June 1, 1959, in a public highway called State Street in Helena, Montana, defendant C. D. or defendant E. F., or both defendants C. D. and E. F. wilfully or recklessly or negligently drove or caused to be driven a motor vehicle against the plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of.....dollars.

Wherefore plaintiff demands judgment against C. D. or against E. F. or against both in the sum of..... dollars and costs.

Form 10. COMPLAINT FOR CONVERSION.

On or about December 1, 1959, defendant converted to his own use ten bonds of the.....Company (inserting brief identification as by number and issue) of the value of.....dollars, the property of plaintiff.

Wherefore plaintiff demands judgment against defendant in the sum of.....dollars, interest and costs.

Form 11. COMPLAINT FOR SPECIFIC PERFORMANCE OF CONTRACT TO CONVEY LAND.

1. On or about December 1, 1958, plaintiff and defendant entered into an agreement in writing a copy of which is hereto annexed as Exhibit A.

2. In accord with the provisions of said agreement plaintiff tendered to defendant the purchase price and requested a conveyance of the land, but defendant refused to accept the tender and refused to make the conveyance.

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Appendix of forms—continued.

3. Plaintiff now offers to pay the purchase price.

Wherefore plaintiff demands (1) that defendant be required specifically to perform said agreement; (2) damages in the sum of.....dollars; (3) that if specific performance is not granted plaintiff have judgment against defendant in the sum of.....dollars; and (4) judgment for costs.

Form 12. COMPLAINT ON CLAIM FOR DEBT AND TO SET ASIDE FRAUDULENT CONVEYANCE UNDER RULE 18(b).

1. Defendant C. D. on or about June 1, 1958, executed and delivered to plaintiff a promissory note (setting forth the note verbatim, or in substance and legal effect, or by annexing a copy, as in Form 2).

2. Defendant C. D. owes to plaintiff the amount of said note and interest.

3. Defendant C. D. on or about December 1, 1958, conveyed all his property, real and personal (or specify and describe) to defendant E. F. for the purpose of defrauding plaintiff and hindering and delaying the collection of the indebtedness evidenced by the note above referred to.

Wherefore plaintiff demands judgment (1) against defendant C. D. for.....dollars and interest; (2) that the aforesaid conveyance to defendant E. F. be declared void and the judgment herein be declared a lien on said property; (3) for plaintiff's costs.

Form 13. COMPLAINT FOR NEGLIGENCE UNDER FEDERAL EMPLOYERS' LIABILITY ACT (45 U.S.C.A., §§51-58).

1. During all the times herein mentioned defendant owned and operated in interstate commerce a railroad which passed through a tunnel located at.....and known as Tunnel No.....

2. On or about June 1, 1958, defendant was repairing and enlarging the tunnel in order to protect interstate trains and passengers and freight from injury and in order to make the tunnel more conveniently usable for interstate commerce.

3. In the course of thus repairing and enlarging the tunnel on said day defendant employed plaintiff as one

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Appendix of forms—continued.

of its workmen, and negligently put plaintiff to work in a portion of the tunnel which defendant had left unprotected and unsupported.

4. By reason of defendant's negligence in thus putting plaintiff to work in that portion of the tunnel, plaintiff was, while so working pursuant to defendant's orders, struck and crushed by a rock, which fell from the unsupported portion of the tunnel, and was (describing plaintiff's injuries).

5. Prior to these injuries, plaintiff was a strong, able-bodied man, capable of earning and actually earning .....dollars per day. By these injuries he has been made incapable of any gainful activity, has suffered great physical and mental pain, and has incurred expense in the amount of.....dollars for medicine, medical attendance and hospitalization.

Wherefore plaintiff demands judgment against defendant in the sum of.....dollars and costs.

Form 14. COMPLAINT FOR INTERPLEADER AND DECLARATORY RELIEF.

1. On or about June 1, 1956, plaintiff issued to G. H. a policy of life insurance whereby plaintiff promised to pay to K. L. as beneficiary the sum of ten thousand dollars upon the death of G. H. The policy required the payment by G. H. of a stipulated premium on June 1, 1956, and annually thereafter as a condition precedent to its continuance in force.

2. No part of the premium due June 1, 1956, was ever paid and the policy ceased to have any force or effect on July 1, 1956.

3. Thereafter, on September 1, 1956, G. H. and K. L. died as the result of a collision between a locomotive and the automobile in which G. H. and K. L. were riding.

4. Defendant C. D. is the duly appointed and acting executor of the will of G. H.; defendant E. F. is the duly appointed and acting executor of the will of K. L.; defendant X. Y. claims to have been duly designated as beneficiary of said policy in place of K. L.

5. Each of defendants C. D., E. F., and X. Y. is claiming that the above-mentioned policy was in full force and

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effect at the time of the death of G. H.; each of them is claiming to be the only person entitled to receive payment of the amount of the policy and has made demand for payment thereof.

6. By reason of these conflicting claims of the defendants, plaintiff is in great doubt as to which defendant is entitled to be paid the amount of the policy, if it was in force at the death of G. H.

Wherefore plaintiff demands that the court adjudge:

(1) That none of the defendants is entitled to recover from plaintiff the amount of said policy or any part thereof.

(2) That each of the defendants be restrained from instituting any action against plaintiff for the recovery of the amount of said policy or any part thereof.

(3) That, if the court shall determine that said policy was in force at the death of G. H., the defendants be required to interplead and settle between themselves their rights to the money due under said policy, and that plaintiff be discharged from all liability in the premises except to the person whom the court shall adjudge entitled to the amount of said policy.

(4) That plaintiff recover its costs.

Form 15. MOTION TO DISMISS.

The defendant moves the court as follows:

(1) To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.

(2) To dismiss the action or in lieu thereof to quash the return of service of summons on the grounds: (Here state reasons, such as (a) that the defendant is a corporation organized under the laws of Delaware and was not and is not subject to service of process within the State of Montana; (b) that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M. N. and X. Y. hereto annexed as Exhibit A and Exhibit B. respectively; (c) (etc.).)

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Appendix of forms— continued.

.....
Attorney for Defendant

.....
Address

Notice of Motion

To:....., Attorney for Plaintiff:

Please take notice, that the undersigned will bring the above motion for hearing before this court at the courtroom thereof in the Courthouse at....., Montana, on the.....day of....., 19....., at..... o'clock .....M. or as soon thereafter as counsel can be heard.

.....
Attorney for Defendant

.....
Address

Form 16. ANSWER PRESENTING DEFENSES UNDER RULE 12(b)

FIRST DEFENSE

The complaint fails to state a claim against defendant upon which relief can be granted.

SECOND DEFENSE

If defendant is indebted to plaintiffs for the goods mentioned in the complaint, he is indebted to them jointly with G. H. G. H. is alive; is a citizen and resident of the State of Montana; is subject to the jurisdiction of this court, as to both service of process and venue; can be made a party, but has not been made one.

THIRD DEFENSE

Defendant admits the allegation(s) contained in paragraph(s).....of the complaint; alleges that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paraph(s).....of the complaint; and denies each and every other allegation contained in the complaint.

FOURTH DEFENSE

The right of action set forth in the complaint did not

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accrue within.....years next before the commencement of this action, and is therefore barred by the provisions of section (setting forth the particular section or subsection applicable thereto).

COUNTERCLAIM

(Here set forth any claim as a counterclaim in the manner in which a claim is pleaded in a complaint.)

CROSS-CLAIM AGAINST DEFENDANT M. N.

(Here set forth the claim constituting a cross-claim against defendant M. N. in the manner in which a claim is pleaded in a complaint.)

Form 17. ANSWER TO COMPLAINT SET FORTH IN FORM 7, WITH COUNTERCLAIM FOR INTERPLEADER.

DEFENSE

Defendant denies the allegations of the complaint to the extent set forth in the counterclaim herein.

COUNTERCLAIM FOR INTERPLEADER

1. Defendant received the sum of ten thousand dollars as a deposit from E. F.

2. Plaintiff has demanded the payment of such deposit to him by virtue of an assignment of it which he claims to have received from E. F.

3. E. F. has notified the defendant that he claims such deposit, that the purported assignment is not valid, and that he holds the defendant responsible for the deposit.

Wherefore defendant demands:

(1) That the court order E. F. to be made a party defendant to respond to the complaint and to this counterclaim.

(2) That the court order the plaintiff and E. F. to interplead their respective claims.

(3) That the court adjudge whether the plaintiff or E. F. is entitled to the sum of money.

(4) That the court discharge defendant from all liability in the premises except to the person it shall adjudge entitled to the sum of money.

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Appendix of forms—continued.

(5) That the court award to the defendant its costs and attorney's fees.

Form 18. SUMMONS AND THIRD-PARTY COMPLAINT — INTERPLEADER.

A. B., Plaintiff,
vs.
C. D., Defendant,
and Third-Party Plaintiff,
vs.
E. F., Third-Party Defendant.

THIRD PARTY SUMMONS
Civil No.....

The State of Montana to the Above-Named Third-Party Defendant:

You are hereby summoned to answer the third-party complaint in this action which is filed in the office of the clerk of this court, a copy of which is herewith served upon you, and to file your answer and serve a copy thereof upon the plaintiff's attorney and upon the attorney for defendant and third-party plaintiff within twenty days after the service of this third-party summons, exclusive of the day of service; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the third-party complaint.

Witness my hand and the seal of said court, this..... day of.....

.....
Clerk of the District Court

(COURT SEAL)

G. H.

Attorney for Defendant
and Third-Party Plaintiff

.....
(Address)

....., Montana

The name and address of the attorney for Plaintiff is:

J. K.

.....
(Address)

....., Montana

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Appendix of forms—continued.

A. B.,	Plaintiff,	.....
vs.		
C. D.,	Defendant,	THIRD PARTY COMPLAINT
and Third-Party Plaintiff,		
vs.		Civil No.....
E. F.,	Third-Party Defendant.	

1. Plaintiff A. B. has filed against defendant C. D., a complaint, a copy of which is hereto attached as Exhibit C.

2. (Here state the grounds upon which C. D. is entitled to recover from E. F., all or part of what A. B. may recover from C. D. The statement should be framed as in an original complaint.)

Wherefore C. D. demands judgment against third-party defendant E. F. for.....dollars and for costs.

.....
Attorney for Third-Party Plaintiff

.....
(Address)

Form 19. MOTION TO INTERVENE AS A DEFENDANT UNDER RULE 24.

A. B.,	Plaintiff,	MOTION TO INTERVENE AS A DEFENDANT
vs.		
C. D.,	Defendant,	
E. F.,	Applicant for Intervention	Civil No.....

E. F. moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in his proposed answer, of which a copy is hereto attached, on the grounds (here set forth generally the grounds upon which intervention is sought, in accordance with the right of intervention contained in Rule 24) and as such as a defense to plaintiff's claim presenting (setting forth whether the same relates to questions of law or fact, or both) which are common to the main action.

.....
Attorney for E. F., Applicant for Intervention

.....
(Address)

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Appendix of forms—continued.

NOTICE OF MOTION

(Contents the same as those in Form 15, or notice and motion may be combined in a notice of motion as provided in Rule 7(b).)

INTERVENOR'S ANSWER

(Set forth defenses in accordance with the outline contained in Form 16)

Form 20. MOTION FOR PRODUCTION, ETC., UNDER RULE 34.

Plaintiff A. B. moves the court for an order requiring defendant C. D.:

(1) To produce and to permit plaintiff to inspect and to copy each of the following documents:

[Here list the documents and describe each of them]

(2) To produce and permit plaintiff to inspect and to photograph each of the following objects:

[Here list the objects and describe each of them]

(3) To permit plaintiff to enter [here describe property to be entered] and to inspect and to photograph [here describe the portion of the real property and the objects to be inspected and photographed].

Defendant C. D. has the possession, custody, or control of each of the foregoing documents and objects and of the above mentioned real estate. Each of them constitutes or contains evidence relevant and material to a matter involved in this action, as is more fully shown in Exhibit A hereto attached.

.....
Attorney for Plaintiff

.....
Address

EXHIBIT A

STATE OF MONTANA }
} ss
County of Lewis and Clark }

A. B., being first duly sworn says:

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Appendix of forms—continued.

(1) (Here set forth all that plaintiff knows which shows that defendant has the papers or objects in his possession or control.)

(2) (Here set forth all that plaintiff knows which shows that each of the above mentioned items is relevant to some issue in the action.)

A. B. (Signed)

(Jurat)

Form 21. REQUEST FOR ADMISSION UNDER RULE 36

Plaintiff A. B. requests defendant C. D. within ..... days after service of this request to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial:

1. That each of the following documents, exhibited with this request, is genuine.

[Here list the documents and describe each document.]

2. That each of the following statements is true. [Here list the statements.]

.....
Attorney for Plaintiff

.....
Address

Form 22. ALLEGATION OF REASON FOR OMITTING NECESSARY PARTY.

John Doe named in this complaint is not made a party to this action [because he is not subject to the jurisdiction of this court]; or [for reasons stated].

Special statutory proceedings.

Section 81. Table A. **Special statutory proceedings under Rule 81.**

Following is a list of sections of the Revised Codes of Montana, 1947, as amended, pertaining to special proceedings which are excepted from these rules insofar as they are inconsistent or in conflict with the procedure and practice provided by these rules:

Review of beer license, revocation, suspension or denial 4-342

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Special statutory proceedings—continued.

Review of liquor license revocation, suspension, or denial 4-425
Closed bank proceedings 5-1107
Review of decision of Superintendent of Banks 5-1108
Appeal from decision of Superintendent of Banks.... 5-1112
Closed banks, procedure for disposition of assets 5-1118
Appointment of trustee of cemetery association 9-121
Removal of dedication of property for cemetery.... ..... 9-816, 9-817
Proceedings re dependent and neglected children ..... Title 10, Ch. 5
Juvenile courts ..... Title 10, Ch. 6
Appeal from city approval of emergency expenditures 11-1409
Appeal from appraisement of damage to landowner caused by change of grade of street or sidewalk 11-2604, 11-2605
Review of decision of municipal board of adjustment re zoning regulations 11-2707
Determination of title to lots in entry townsites 11-3014, 11-3026
Formation of agricultural or co-operative corporations or districts ..... 14-302 to 14-304
Creation of indebtedness of same 14-319, 14-320
Lost or destroyed stock certificates 15-644
Dissolution of corporations ..... 15-1108 to 15-1114
Assignments for benefit of creditors ..... 18-314 to 18-326
Contesting nominations ..... 23-926 to 23-928
Recount of votes ..... 23-2301 to 23-2304
Appeal from revocation of oleomargarine license.... 27-517
Appeal from revocation of driver's license 31-152
Appraisement of homestead subject to execution ..... 33-109 to 33-123
Insane, examination and commitment ..... 38-201 to 38-214
Same, voluntary ..... 38-401 to 38-412
Eugenical sterilization law 38-606
Inebriates, commitment ..... 38-701 to 38-711
State Training School, commitment to .... 38-801 to 38-819
Senile aged, commitment ..... 38-1101 to 38-1112
Insurance Code effective January 1, 1961:
Appeals from Commissioner of Insurance 40-2725
Service of process 40-2818, 40-2819
Unauthorized insurers — service of process, defense of actions, attorneys' fees.... 40-3403 to 40-3408

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Special statutory proceedings—continued.

Surplus lines, service of process 40-3423, 40-3424
Prohibited or undefined trade practices — injunction proceedings, and appeals from Commissioner's report 40-3514, 40-3515
Appeals from decisions of Commissioner of Insurance respecting rates and rating organizations 40-3633
Delinquency proceedings against insurance companies .....40-5101 to 40-5133
Fraternal benefit societies, service of process 40-5352
Fraternal benefit societies, injunction and quo warranto proceedings 40-5356, 40-5357
Grazing district appeal procedure 46-2308
State Mine Inspector, procedure for investigation of charges of neglect of duty 50-410
Review of order of Montana Trade Commission 51-113
Appeal from decision of Highway Patrol Supervisor 53-419
Review of Orders of Oil and Gas Conservation Commission 60-135
Uniform Adoption Act .....61-201 to 61-217
Appeal from decision of Board of Medical Examiners 66-1004
Review of order of Board of Pharmacy 66-1509
Commitment to State Tuberculosis Hospital.....
.....69-307 to 69-310 and 69-313
Establishing birth 69-522
Review of decision of Board of Health or Water Pollution Council 69-1335
Review of actions of Public Service Commission 70-128
Review of action of Board of Railroad Commissioners 72-125
Review of school trustees' resolution to sell school property 75-1634
Compulsory attendance at school 75-2901
State Industrial School, commitment 75-3001, 75-3002
State Industrial School .....80-810 and 80-815 to 80-817
State Vocational School, commitment .....80-918 to 80-921
Female reformatories, commitment 80-1002, 80-1003
Proceedings to abate fire hazards .....82-1219 to 82-1222
Appeal from decision of Commissioner of Agriculture .....84-3410 to 84-3412
Action to confirm tax deed .....84-4144 to 84-4150
Action to quiet title to tax deed property 84-4158

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Special statutory proceedings—continued.

Action to procure tax deed .....84-4162 to 84-4169
Complaint in action to collect taxes by suit 84-4302
Cigarette tax appeal 84-5617
Administration of trusts .....86-315 to 86-326
Review of order of Unemployment Compensation Commission 87-108
Insecure dams .....89-702 to 89-714
Creation of irrigation districts .....89-1201 to 89-1204
Irrigation districts — changing boundaries, correcting errors, fixing taxable acreage, etc. .....Title 89, Ch. 14
Confirmation of resolution authorizing bonds for irrigation district 89-1704
Dissolution of irrigation districts .....89-2001 to 89-2008
Irrigation districts, appeals 89-2101, 89-2102
Drainage districts, creation .....Title 89, Ch. 22
Drainage districts, commissioners .....Title 89, Ch. 23
Proceedings to alter or add to drainage district .....Title 89, Ch. 27
Miscellaneous provisions respecting drainage districts .....Title 89, Ch. 28
Escheated estate proceedings .....91-515 to 91-518
Procedure to obtain authority to mortgage, lease, or sell part of estate .....Title 91, Ch. 31
Determination of heirship .....91-3801 to 91-3803
Termination of life estate or joint tenancy 91-4321
Appointment of guardians of minors 91-4601
Appointment of guardians of insane and incompetent persons 91-4701, 91-4702
Restoration to capacity 91-4704
Uniform Veterans' Guardianship Act .....Title 91, Ch. 48
Procedure to mortgage or lease by guardians 91-4911
Property sale by guardians .....91-5005 to 91-5013
Guardians of nonresidents .....Title 91, Ch. 51
Examination and removal of guardians, etc. 91-5201, 91-5202
Proceedings supplementary to execution..93-5901 to 93-5913
Quiet title (including actions to establish title to property granted to heirs of deceased entrymen) .....93-6201 to 93-6239
Partition of property .....93-6301 to 93-6360
Certiorari .....93-9001 to 93-9011
Mandamus .....93-9101 to 93-9114
Prohibition .....93-9201 to 93-9204

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Special statutory proceedings—continued.

Provisions applicable to certiorari, mandamus, and prohibition ..... 93-9301 to 93-9303
Eminent domain ..... 93-9901 to 93-9926
Change of name ..... 93-100-1 to 93-100-9
Judicial determination of birth ..... 93-101-1 to 93-101-6
Arbitration ..... 93-201-1 to 93-201-10
Bastardy proceedings ..... 94-9901 to 94-9908
Habeas corpus ..... 94-101-1 to 94-101-33
Uniform Reciprocal Enforcement of Support Act ..... 94-901-1 to 94-901-18

Rules superseding statutes.

Section 82. Table B. **List of rules superseding statutes.**

Rule	Statutes Superseded (R.C.M. 1947, sections)
4	93-2816, 93-3006, 93-3007, 93-3013, 93-3014, 93-3015
4 (with Rule 12(a))	93-3003
4D(9), (10)	93-3018
4D(11)	93-3017
5	93-3819, 93-8501, 93-8502, 93-8503, 93-8507
5 (with Rule 6(e))	93-8504
6(b) (with Rules 15(a), 55(c), 60)	93-3905
6(d) and (e)	93-8403
6(e) (with Rule 5)	93-8504
7(a)	93-3101, 93-3102, 93-3103, 93-3201, 93-3601, 93-3603
7(b)	93-8401
7(c)	93-3301, 93-3302, 93-3303, 93-3306, 93-3501, 93-3502, 93-3503, 93-3504, 93-3505, 93-3506, 93-3604, 93-3907, 93-4902
8(a)	93-3202, 93-3412, 93-3808, 93-3812
8(b)	93-3401(1), 93-3410, 93-3411, 93-3813, 93-3816
8(c)	93-3401(2)
8(d)	93-3815, 93-3817, 93-4904
8(e) (1)	93-3202(2)
8(e) (2)	93-3410, 93-3602
8(f)	39-3801, 93-3909
9(a)	93-3301(2), 93-3505(2)
9(c)	93-3807
9(d)	93-3811

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Rules superseding statutes—continued.

9(e) 93-3806
10(a) ..... 93-3202(1)
10(b) 93-3410, 93-3602
10(c) 93-3820
11 93-3701
12(a) (with Rule 4) 93-3003
12(b) 93-2905, 93-3301, 93-3305, 93-3501, 93-3502, 93-3504, 93-3505, 93-3506, 93-3604, 93-4902
12(e) ..... 93-3301(7)
12(f) 93-3802, 93-3803
12(h) 93-3306
13(a) 93-3408
13(b) 93-3402
13(c) 93-3402, 93-3404, 93-3405, 93-5703
13(g) 93-3415
14(a) 93-3415
15(a) 93-3304, 93-3904
15(a) (with Rules 6(b), 55(c), 60) 93-3905
15(b) 93-2303, 93-3901, 93-3902, 93-3903, 93-3909
15(d) 93-3818
17(a) 93-2801
17(b) 93-2805
18(a) 93-3203
19(a) 93-2821
19(b) 93-2828
20(a) 93-2811, 93-2812, 93-2818, 93-2822
20(b) 93-4906
22 93-2825
23 93-2821
24 ..... 93-2826, 93-2828
25 93-2824
26 to 32, inclusive ..... 93-1801-1 to 93-1801-16, inclusive
26(a) 93-1801-2, 93-1801-3
26(b) 93-1801-2, 93-1801-3, 93-1801-4
26(c) 93-1801-10
26(d) (2) 93-1801-8
26(d) (3) 93-1801-3, 93-1801-10
26(d) (5) 93-1801-12
26(e) 93-1801-10
27(a) ..... 93-2301-1 to 93-2301-7, inclusive
28(a) 93-1801-4, 93-1801-9
28(b) 93-1801-4

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Rules superseding statutes—continued.

28(d)	93-1801-13, 93-1801-14, 93-1801-15
29	93-1801-4, 93-1801-5, 93-1801-10
30(a)	93-1801-4, 93-1801-9
30(c)	93-1801-6, 93-1801-10
30(e)	93-1801-10, 93-1801-11
30(f) (1)	93-1801-6, 93-1801-10
31(a)	93-1801-5
31(b)	93-1801-5, 93-1801-6
31(d)	93-1801-5
32(a)	93-1801-11
32(b)	93-1801-11
32(c) (1)	93-1801-10
32(c) (2)	93-1801-10
32(c) (3)	93-1801-5
34	93-8301
38(d)	93-5301
39(a)	93-4905
39(b)	93-4905, 93-5301
40	93-4908, 93-4909
41(a) (1)	93-4705(1), (2)
41(b)	93-4705(3), (4), (5), 93-4708
42(a)	93-8705
42(b)	93-4906
43(b)	93-1901-9
45(c)	93-1501-5
46	93-5502
47(a)	93-5012
47(b)	93-5013, 93-5014
49	93-5111, 93-5201, 93-5202
51	93-5101(5)
52(a)	93-5303, 93-5411
53(a)	93-5403, 93-5407, 93-8607
53(b)	93-5401, 93-5402
53(c)	93-5401, 93-5402, 93-5406, 93-5407
53(d)	93-5405, 93-5406, 93-5410
53(e)	93-5410, 93-5411, 93-5412
54(a)	93-4701
54(b)	93-4703
54(c)	93-4704
54(d)	93-4709
55(a)	93-4801(1), (2)
55(b) (1)	93-4801(1)
55(b) (2)	93-4120, 93-4801(2), (3), (4)
55(c) (with Rules 6(b), 15(a), and 60)	93-3905

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55(d)	93-3603
58	93-5701
59(b), (c)	93-5605
60 (with Rules 6(b), 15(a), and 55(c))	93-3905
61	93-3909
62(d)	93-8007, 93-8008, 93-8009, 93-8010
68	93-8201

Statutes superseded by rules.

Section 83. Table C. **List of statutes superseded by rules.**

Statutes Superseded (R.C.M. 1947, sections)	Rules
93-2303	15(b)
93-2801	17(a)
93-2805	17(b)
93-2811	20(a)
93-2812	20(a)
93-2816	4
93-2818	20(a)
93-2821	19(a), 23
93-2822	20(a)
93-2824	25
93-2825	22
93-2826	24
93-2828	19(b), 24
93-2905	12(b)
93-3003	4 and 12(a) together
93-3006	4
93-3007	4
93-3013	4
93-3014	4
93-3015	4
93-3017	4D(11)
93-3018	4D(9), (10)
93-3101	7(a)
93-3102	7(a)
93-3103	7(a)
93-3201	7(a)
93-3202	8(a)
93-3202(1)	10(a)
93-3202(2)	8(e) (1)
93-3203	18(a)
93-3301	7(c), 12(b)
93-3301(2)	9(a)

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Statutes superseded by rules—continued.

93-3301(7)	12(e)
93-3302	7(c)
93-3303	7(c)
93-3304	15(a)
93-3305	12(b)
93-3306	7(c), 12(h)
93-3401(1)	8(b)
93-3401(2)	8(c)
93-3402	13(b), 13(c)
93-3404	13(c)
93-3405	13(c)
93-3408	13(a)
93-3410	8(b), 8(e) (2), 10(b)
93-3411	8(b)
93-3412	8(a)
93-3415	13(g), 14(a)
93-3501	7(c), 12(b)
93-3502	7(c), 12(b)
93-3503	7(c)
93-3504	7(c), 12(b)
93-3505	7(c), 12(b)
93-3505(2)	9(a)
93-3506	7(c), 12(b)
93-3601	7(a)
93-3602	8(e) (2), 10(b)
93-3603	7(a), 55(d)
93-3604	7(c), 12(b)
93-3701	11
93-3801	8(f)
93-3802	12(f)
93-3803	12(f)
93-3806	9(e)
93-3807	9(c)
93-3808	8(a)
93-3811	9(d)
93-3812	8(a)
93-3813	8(b)
93-3815	8(d)
93-3816	8(b)
93-3817	8(d)
93-3818	15(d)
93-3819	5
93-3820	10(c)
93-3901	15(b)

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Statutes superseded by rules—continued.

93-3902	15(b)
93-3903	15(b)
93-3904	15(a)
93-3905	6(b), 15(a), 55(c), and 60 together
93-3907	7(c)
93-3909	8(f), 15(b), 61
93-4120	55(b) (2)
93-4701	54(a)
93-4703	54(b)
93-4704	54(c)
93-4705(1), (2)	41(a) (1)
93-4705(3), (4), (5)	41(b)
93-4708	41(b)
93-4709	54(d)
93-4801(1)	55(a), 55(b) (1)
93-4801(2)	55(a), 55(b) (2)
93-4801(3)	55(b) (2)
93-4801(4)	55(b) (2)
93-4902	7(c), 12(b)
93-4904	8(d)
93-4905	39(a), 39(b)
93-4906	20(b), 42(b)
93-4908	40
93-4909	40
93-5012	47(a)
93-5013	47(b)
93-5014	47(b)
93-5101(5)	51
93-5111	49
93-5201	49
93-5202	49
93-5301	38(d), 39(b)
93-5303	52(a)
93-5401	53(b), 53(c)
93-5402	53(b), 53(c)
93-5403	53(a)
93-5405	53(d)
93-5406	53(c), 53(d)
93-5407	53(a), 53(c)
93-5410	53(d), 53(e)
93-5411	52(a), 53(e)
93-5412	53(e)
93-5502	46
93-5605	59(b), (c)

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Statutes superseded by rules—continued.

93-5701	58
93-5703	13(c)
93-8007	62(d)
93-8008	62(d)
93-8009	62(d)
93-8010	62(d).
93-8201	68
93-8301	34
93-8401	7(b)
93-8403	6(d) and (e)
93-8501	5
93-8502	5
93-8503	5
93-8504	5 and 6(e) together
93-8507	5
93-8607	53(a)
93-8705	42(a)
93-1501-5	45(c)
93-1801-1 to 93-1801-16, inclusive	26 to 32, inclusive
93-1801-2	26(a), 26(b)
93-1801-3	26(a), 26(b), 26(d) (3)
93-1801-4	26(b), 28(a), 28(b), 29, 30(a)
93-1801-5	29, 31(a), 31(b), 31(d), 32(c) (3)
93-1801-6	30(c), 30(f) (1), 31(b)
93-1801-8	26(d) (2)
93-1801-9	28(a), 30(a)
93-1801-10	26(c), 26(d), (3) 26(e), 29, 30(c), 30(e), 30(f) (1), 32(c) (1), 32(c) (2)
93-1801-11	30(e), 32(a), 32(b)
93-1801-12	26(d) (5)
93-1801-13	28(d)
93-1801-14	28(d)
93-1801-15	28(d)
93-1901-9	43(b)
93-2301-1 to 93-2301-7, inclusive	27(a)

Sections repealed.

Section 84. That section 93-2303; section 93-2801; section 93-2805; section 93-2811; section 93-2812; section 93-2816; section 93-2818; section 93-2821; section 93-2822; sections 93-2824 through 93-2826; section 93-2828; section 93-2905; section 93-3003; section 93-3006; section 93-3007; sections 93-3013 through 93-3015; section 93-3017; section 93-3018; sections 93-3101 through 93-3103; sections 93-3201 through 93-3203; sections 93-3301 through 93-3306; section 93-3401; section 93-3402; section 93-3404;

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Sections repealed—continued.

section 93-3405; section 93-3408; sections 93-3410 through 93-3412; section 93-3415; sections 93-3501 through 93-3506; sections 93-3601 through 93-3604; section 93-3701; sections 93-3801 through 93-3803; sections 93-3806 through 93-3808; sections 93-3811 through 93-3813; sections 93-3815 through 93-3819; section 93-3820 as amended by chapter 16, Laws of Montana, 1953; sections 93-3901 through 93-3905; sections 93-3907; section 93-3909; section 93-4120; section 93-4701; sections 93-4703 through 93-4705; section 93-4708; section 93-4709; section 93-4801; section 93-4902; section 93-4904; section 93-4905 as amended by chapter 84, Laws of Montana, 1949; section 93-4906; section 93-4908; section 93-4909; sections 93-5012 through 93-5014; subsection (5) of section 93-5101; section 93-5111; section 93-5201; section 93-5202; section 93-5301; section 93-5303; sections 93-5401 through 93-5403; sections 93-5405 through 93-5407; sections 93-5410 through 93-5412; section 93-5502; section 93-5605; section 93-5701; section 93-5703; section 93-8007 as amended by chapter 75, Laws of Montana, 1959; sections 93-8008 through 93-8010; section 93-8201; section 93-8301; section 93-8401; section 93-8403; sections 93-8501 through 8504; section 93-8507; section 93-8607; section 93-8705; section 93-1501-5; sections 93-1801-1 through 93-1801-3; section 93-1801-4 as amended by chapter 9, Laws of Montana, 1953; sections 93-1801-5 through 93-1801-16; section 93-1901-9; sections 93-2301-1 through 93-2301-7, and all acts and parts of acts in conflict herewith are hereby repealed.

Approved February 9, 1961.

CHAPTER 14

An Act to Amend Section 82-2002 of the Revised Codes of Montana, 1947, Relating to the Duties of the Reporters of the Decisions of the Supreme Court; and to Amend Section 82-2004 of the Revised Codes of Montana, 1947, Relating to Contracts for Publication of the Montana Reports by Providing That the Reporters Shall Make Careful and Accurate Reports of the Cases Decided Pursuant to Rules and Regulations Promulgated by the Justices of the Supreme Court; and That the Contract for Publication of Such Reports Shall Be for any Term

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of Years Agreeable to the Justices, Provided That Such Term Shall Not Exceed Six (6) Years Nor Be for Less Than One (1) Year, and Deleting the Requirement for a Six (6) Year Contract.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 82-2002, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Rules of supreme court govern reports of decisions.

"82-2002. (379) **Duties of reporters.** The reporters of the decisions of the supreme court shall make careful and accurate reports of the cases decided by the supreme court. *The reports of such cases shall be made under the supervision of, and pursuant to rules and regulations promulgated by the justices of the supreme court.*

Amending clause.

Section 2. That section 82-2004, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Reports to be published under contract not to exceed 6-year term.

"82-2004. (381) **Contract with publisher.** The justices shall have no pecuniary interest in the volumes of reports. The reports must be published by contract to be entered into by the justices and with the publishing house that will agree to publish the new volumes of the Montana reports *for any term of years agreeable to the justices, provided that such term shall not exceed six (6) years, nor be for less than one (1) year,* and furnish to the state and the people of the state at prices fixed in the contract any volume or volumes printed by such publishers. In the contract the justices may, at their discretion, require the publisher to agree to furnish complete sets or odd volumes of the Montana reports from and including volume one to the last volume published, to the state and the people of the state at prices fixed in the contract. Such contract shall require the publisher to print each volume in accordance with the specifications set forth in the preceding section. It shall also require the publisher to issue each new volume within ninety (90) days after the manuscript for the same is delivered by the justices to the said publisher. Such contract shall also require the publisher to make stereotype matrices of each volume so published by him, and to preserve these matrices in fire proof vaults, to the end that the volumes will never become out of print. The publisher receiving the contract as herein provided shall, before

Other terms of contract.

Publisher to advertise in state.

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commencing the publication of the volumes of such reports, advertise in two (2) newspapers in Montana for ten (10) days for proposals for such printing, stereotyping, and binding of such volumes, and such publisher shall, if the proposals for such work do not exceed by the sum of twenty per cent (20%), the amount for which the same can be done outside of the state, cause such printing, stereotyping and binding to be done within the state of Montana."

Approved February 9, 1961.

CHAPTER 15

An Act to Authorize the State Fish and Game Commission to Issue Special Non-resident Black or Brown Bear Licenses, Fixing the Fees, Tagging Requirements, and Other Privileges Under Such License; Providing for a Termination Date and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

State fish and game commission may issue special non-resident bear license—fee $20.

Section 1. The State Fish and Game Commission may issue special non-resident black or brown bear licenses as provided for in subsection 15 of section 26-104. Such special licenses shall be valid only for the area designated on the license, and shall expire on the thirtieth (30th) day of April each year. The fee for each special non-resident black or brown bear, or any color phase of the black bear, license shall be twenty dollars ($20.00). There shall be a permit included with each special non-resident black or brown bear license, to authorize the holder thereof to ship, transport or remove out of state any black or brown bear or part thereof taken under authority of said license.

The Fish and Game Commission is authorized to promulgate rules and regulations relative to tagging, possession or transportation of bear within or without the state.

Effective date.

Section 2. This act shall remain in full force and effect until December 31, 1962.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 14, 1961.

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CHAPTER 16

An Act to Amend Section 40-3128, Revised Codes of Montana, 1947, as Enacted by Chapter 286, Session Laws of 1959, Relating to Investments of Insurance Companies in Real Estate and Interests Therein; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 40-3128 of the Revised Codes of Montana, 1947, as enacted by chapter 286, Montana Session Laws of 1959, be, and the same is hereby amended to read as follows:

Limitations on investment in real estate by an insurer.

"40-3128. **Real estate.** An insurer may invest in real estate only if used for the purposes or acquired in the manners, and within the limits as follows:

"(1) The land and the buildings thereon in which it has its principal office, and such other real estate as shall be requisite for its convenient accommodation in the transaction of its business. Except with the consent of the commissioner, all such investments shall not aggregate more than five per cent (5%) of the insurer's assets.

"(2) Real estate acquired in satisfaction of loans, mortgages, liens, judgments, decrees or debts previously owing to the insurer in the course of its business.

"(3) Real estate acquired in part payment of the consideration on the sale of other real estate owned by it, if such transaction does not increase the insurer's investment in real estate.

"(4) Real estate acquired by gift or devise, or through merger, consolidation, or bulk reinsurance of another insurer under this code.

"(5) The seller's interest in real property subject to an agreement of purchase or sale, but the sum invested in any such parcel of real estate shall not exceed *three-fourths* of the market value of such parcel *provided the same consists of one or two family residential property and two-thirds of the market value of all other such parcels of real estate.*

"(6) Real estate, or any interest therein acquired or held by purchase, lease or otherwise, other than real estate to be used primarily for agricultural, ranch, mining, de-

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velopment of oil or mineral resources, recreational, amusement or club purposes, acquired as an investment for the production of income, or acquired to be improved or developed for such investment purposes pursuant to an existing program therefor. The insurer may hold, improve, develop, maintain, manage, lease, sell, and convey real estate acquired by it under this provision. An insurer shall not, except with the commissioner's consent, have at any one time invested in real estate under this subdivision an amount exceeding five per cent (5%) of its assets.

"(7) Additional real estate and equipment incident to real estate, if necessary or convenient for the purpose of enhancing the sale or other value of real estate previously acquired or held by the insurer under subdivisions (2), (3), (4), or (6) of this section. Such real estate and equipment shall be included, together with the real estate for the enhancement of which it was acquired, for the purpose of applicable investment limits, and shall be subject to disposal at the same time and under the same conditions as applying to such enhanced real estate under section 40-3129.

"(8) Except with the commissioner's consent, all real estate owned by the insurer under this section, except as to seller's interest specified in subdivision (5), shall not at any one time exceed ten per cent (10%) of the insurer's assets."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 14, 1961.

CHAPTER 17

An Act Validating Certain Instruments Affecting Real Property and Which Were Erroneously Executed or Acknowledged, Notice Imparted by Recording Thereof, and Providing That Duly Certified Copies Thereof May Be Read in Evidence With Like Effect as Copies of an Instrument Duly Executed, Acknowledged and Recorded and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

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Instruments of conveyance of real property validated.

Section 1. Any instrument affecting real property, which was, previous to the date this act takes effect, copied into the proper book, kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, or informality in the execution of the instrument or in the certificate or acknowledgment thereof, or the absence of any such certificate; and all such instruments heretofore acknowledged by the vice president and assistant secretary of any corporation, or by either of them, or other person duly authorized by resolution by such corporation executing the same on behalf of the corporation, and recorded, shall be valid and shall have the same force and effect as though acknowledged by the president or secretary; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of the record of any such instrument may be read in evidence, with like effect as copies of an instrument duly acknowledged and recorded.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 14, 1961.

CHAPTER 18

An Act to Increase the Annual License Tax of Attorneys from Five Dollars to Ten Dollars by Amending Section 93-2010, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-2010, Revised Codes of Montana, 1947, is amended to read as follows:

License tax to practice law in state—$10.00.

"93-2010. Every attorney or counselor-at-law, admitted by the supreme court of the state to practice his profession within the state, shall be required to pay a license tax of *ten* dollars per annum, which tax shall be payable to and collected by the clerk of the supreme court on or before the first day of April of each year.

Clerk to issue certificate on payment.

"Upon the payment of such tax the said clerk shall issue and deliver a certificate to the person paying the

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same, certifying to the payment of said license tax, and stating the period covered by said payment. No license tax shall be imposed upon attorneys by a municipality or any other subdivision of the state."

Approved February 14, 1961.

CHAPTER 19

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations, Heretofore Issued by Public Bodies of This State, and All Proceedings Heretofore Taken by Such Public Bodies, to Authorize and Issue Such Bonds, Instruments and Other Obligations, However Described, and Providing That This Act May Be Cited as 'The 1961 Bond Validating Act'; Containing a Repealing Clause and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Title.

Section 1. This act may be cited as "The 1961 Bond Validating Act."

Section 2. The following terms, wherever used or referred to in this act, shall have the following meaning:

"Public body."

(1) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the State of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission, or any other governmental agency of this state.

"Bonds."

(2) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Section 3. All bonds heretofore issued for any of the

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purposes for which bonds may be issued by any public body of this state and all proceedings heretofore taken for the authorization and issuance of bonds by such public body, and the sale, exchange, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery, and bonds of such public bodies, whether heretofore issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such political body.

Bonds issued by public body validated.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 5. This act shall be in force and effect from and after its passage and approval.

Effective immediately.

Approved February 14, 1961.

CHAPTER 20

An Act to Amend Section 40-3126, Revised Codes of Montana, 1947, as Enacted by Chapter 286, Session Laws of 1959, Relating to Investments of Insurance Companies in Real Estate Mortgages; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 40-3126 of the Revised Codes of Montana, 1947, as enacted by chapter 286, Montana Session Laws of 1959, be, and the same is hereby amended to read as follows:

Amending clause.

"40-3126. **Real estate mortgages.** (1) An insurer may invest any of its funds in bonds, notes or other evidences of indebtedness which are secured by first mortgages or deeds of trust upon improved real property located in the United States or Canada, or which are secured by first mortgages or deeds of trust upon leasehold estates

Limitations on investment in real estate mortgages by an insurer.

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having an unexpired term of not less than twenty-one (21) years (inclusive of the term or terms which may be provided by enforceable options of renewal) in improved real property located in the United States or Canada. In all cases the security for the loan must be a first lien upon such real property, and there must not be any condition or right of re-entry or forfeiture not insured against, under which, in the case of real property other than leaseholds, such lien can be cut off or subordinated or otherwise disturbed or under which, in the case of leaseholds, the insurer is unable to continue the lease in force for the duration of the loan. Nothing herein shall prohibit any investment by reason of the existence of any prior lien for ground rents, taxes, assessments or other similar charges not yet delinquent. This section shall not be deemed to prohibit investment in mortgages or similar obligations when made under section 40-3124 (foreign securities).

Security must be first lien.

"(2) 'Improved real estate' means all farm lands used for tillage, crop, or pasture, timberlands, and all real estate on which permanent improvements suitable for residence, institutional, commercial or industrial use are situated.

"Improved real estate."

"(3) No such mortgage loan or loans made or acquired by an insurer on any one property shall, at the time of investment by the insurer, exceed the larger of the following amounts as applicable:

Limitations on amount of loan.

"(a) Two-thirds of the value of the real property or leasehold securing the same; *provided however if said real property or leasehold consists of one or two family residential property, three-fourths of said value;* or

"(b) The amount of any insurance or guaranty of such loan by the United States of America or by any agency or instrumentality thereof; or

"(c) *The amounts provided in sub-section (a) herein,* plus the amount by which the excess of such loan over such *amount* is insured or guaranteed by the United States of America or by any agency or instrumentality thereof.

"Except, that in the case of a purchase money mortgage given to secure the purchase price of real estate sold by the insurer, the amount so loaned or invested shall not exceed the unpaid portion of the purchase price.

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"(4) No such mortgage loan or loans shall be made or acquired by an insurer except after an appraisal made by a qualified appraiser for the purpose of such investment. Appraisal required.

"(5) No such mortgage loan made or acquired by an insurer which is a participation or a part of a series or issue secured by the same mortgage or deed of trust shall be a lawful investment under this section unless the entire series or issue which is secured by the same mortgage or deed of trust is held by such insurer, or unless the insurer holds a senior participation in such mortgage or deed of trust, giving it substantially the rights of a first mortgagee. Other limitations.

"(6) No mortgage loan upon a leasehold shall be made or acquired pursuant to this section unless the terms thereof shall provide for amortization payments to be made by the borrower on the principal thereof at least once in each year in amounts sufficient completely to amortize the loan within a period of four-fifths of the term of the leasehold, inclusive of the term which may be provided by an enforceable option of renewal, which is unexpired at the time the loan is made, but in no event exceeding thirty-five (35) years." Terms—amortization payments.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 14, 1961.

CHAPTER 21

An Act to Provide for the Vocational Rehabilitation of Industrially Injured Workmen; Providing for the Allocation of Funds Therefor from the Industrial Insurance Fund; Providing for the Voluntary Participation of Employers and Insurers Coming Under Plan One and Plan Two of the Workmen's Compensation Act; and Providing for the Administration Thereof by the Division of Vocational Rehabilitation of the Montana State Board of Education; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The industrial accident board of the State

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Providing for vocational rehabilitation of disabled workmen.

of Montana shall refer to the vocational rehabilitation division of the board of education of the State of Montana workmen who have become permanently disabled as a result of injuries sustained within the scope and course of employment by an employer insured under plan three of the workmen's compensation act of the State of Montana and who in the opinion of said board can be vocationally rehabilitated, and said vocational rehabilitation division shall provide for the vocational rehabilitation of such injured workmen under the provisions of title 41, chapter 8, Revised Codes of Montana, 1947, and amendments thereto.

Review by industrial accident board.

Section 2. When said vocational rehabilitation division has provided all feasible vocational rehabilitation to such an injured workman, or has determined that vocational rehabilitation is not possible or feasible, it shall certify its determination to said industrial accident board, at which time said board shall reconsider and review any previous award of compensation to such injured workman which is then in effect.

Payments allowed while training.

Section 3. The eligibility of any injured workman to receive other benefits under the workmen's compensation act of the State of Montana shall in no way be affected by his entrance upon a course of vocational rehabilitation as herein provided, but he shall be paid, in addition thereto, upon the certification of the vocational rehabilitation division from funds herein provided, (1) his actual and necessary travel expenses from his place of residence to the place of training, and return, (2) his living expenses while in training away from home in an amount not in excess of thirty dollars ($30.00) per week, his expenses for tuition, books and necessary equipment in training.

Section 4. As used herein the masculine shall include the feminine.

Board to allocate funds to vocational rehabilitation division.

Section 5. For the biennium commencing July 1, 1961, the industrial accident board shall allocate one hundred thousand dollars ($100,000.00) from the catastrophe reserve fund of the industrial insurance fund to the vocational rehabilitation division for the purposes of this act. The state treasurer shall be the custodian of said amount allocated, which shall be used only for the vocational rehabilitation of workmen injured within the scope and course of employment by an employer insured under plan

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three of the workmen's compensation act, as herein provided.

Employer or carrier may assume expenses of rehabilitation.

Section 6. Employers or insurance carriers providing workmen's compensation coverage under plan one and plan two of the workmen's compensation act of the State of Montana may certify workmen permanently injured in the course and scope of their employment, on a voluntary basis, to the vocational rehabilitation division of the board of education of the State of Montana, whenever such employer or insurance carrier shall arrange, under such regulations as the vocational rehabilitation division shall make, for the payment of the expenses of rehabilitation in like manner and amounts as herein before provided for workmen injured in plan three employment. When any such plan one or plan two employer or insurance carrier shall so assume the expense of rehabilitating an injured workman, the other provisions of this act shall apply in like manner as in the case of workmen injured in plan three employment.

Limitation on use of funds.

Section 7. No part of the funds allocated or contributed as herein provided and contemplated shall be used in payment of administrative expenses of the industrial accident board or vocational rehabilitation division.

Repealing clause.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 14, 1961.

CHAPTER 22

An Act Amending Chapter 19 of Title 93, Revised Codes of Montana, 1947, and Sections Therein Contained, Being 93-1901, 93-1902, 93-1903, 93-1904, 93-1905, 93-1906, 93-1907 and 93-1908, Relating to Court Stenographers; Deleting Therefrom Reference to the Term 'Court Stenographer' and Substituting Therefor the Term 'Court Reporter'; Amending Section 93-1906, Revised Codes of Montana, 1947, as Amended by Chapter 19, Session Laws of 1955, Further by Providing for Salary Increase to the Sum of Six Thousand Six Hundred Dollars ($6,600.00) Per Year; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That Section 93-1901 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

District judge may appoint reporter.

"93-1901. (8928) **Appointment of** *court reporters.* The judge of a district court may appoint a *reporter* for such court, who is an officer of the court, and holds his office during the pleasure of the judge appointing him, that he must subscribe the constitutional oath of office, and file the same with the clerk of the court. In districts where there are two or more judges, each judge may appoint a *reporter.*"

Amending clause.

Section 2. That Section 93-1902 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Duties of reporters.

"93-1902. (8929) **Duties of** *reporters.* Each *reporter* must, under the direction of the judge attend all sittings of the court, take full stenographic notes of the testimony, and of all proceedings given or had thereat, except when the judge dispenses with his services in a particular cause, or with respect to a portion of the proceedings therein. The *reporter* must file with the clerk forthwith the original stenographic notes taken upon a trial or hearing required to be taken by this section."

Amending clause.

Section 3. That section 93-1903 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Written record must be filed.

"93-1903. (8930) **Same.** All objections made, the rulings, decisions, and opinions of the court, and the exceptions taken during the trial or hearing, must be written out at length or printed in type by the *reporter,* and filed with the clerk forthwith after the close of the trial or hearing, and thereafter such exceptions may be settled in a bill of exceptions, as provided in section 93-5505."

Amending clause.

Section 4. That section 93-1904 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Reporter to furnish copies.

"93-1904. (8931) **To furnish copies to parties, etc.** Each *reporter* specified in this chapter must likewise, upon request, furnish, with all reasonable diligence, to the defendant in a criminal cause, or a party or his attorney in

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a civil cause, in which he has attended the trial or hearing, a copy, written out at length or in narrative form, from his stenographic notes, of the testimony and proceedings, or a part thereof, upon the trial or hearing, upon payment by the person requiring the same, the sum of five cents per folio for the copy written out at length, and seven and one-half cents per folio for the copy written out in narrative form. If the county attorney or attorney-general or judge requires such copy in a criminal cause, the *reporter* is entitled to his fees therefor; but he must furnish it, and upon furnishing it, he shall receive a certificate of the sum to which he is so entitled, which is a county charge, and must be paid by the county treasurer upon the certificate like other county charges. If the judge requires such a copy in a civil case to assist him in rendering a decision, the *reporter* must furnish the same without charge therefor. If it appears to the judge that a defendant in a criminal case is unable to pay for such copy, the same shall be furnished him and paid for by the county."

Payment of fees.

Section 5. That section 93-1905 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Amending clause.

"93-1905. (8932) **Amount to be paid by each party in civil action.** In every issue of fact in civil actions tried before the court or jury, before the trial commences, there must be paid into the hands of the clerk of the court, by each party to the suit, the sum of three dollars, which sum must be paid by said clerk into the treasury of the county where the cause is tried, to be applied upon the payment of the salary of the *reporter,* and the prevailing party may have the amount so paid by him taxed in his bill of costs as proper disbursements."

Payment of fees for salary of reporter.

Bill of costs.

Section 6. That section 93-1906 of the Revised Codes of Montana, 1947, as amended by chapter 19, Session Laws of 1955, be and the same is hereby amended to read as follows:

Amending clause.

"93-1906. (8933) **Salary and expenses of** *reporter*— **Apportionment.** Every *reporter* appointed under the provisions of this chapter receives an annual salary of *six thousand six hundred dollars ($6,600.00)* and no other compensation except as provided in section 93-1904, provided, however, that all transcripts and bills of exceptions required by the county shall be furnished without cost,

Salary of reporter.

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payable in monthly installments out of the general funds of the counties comprising the district for which he is appointed, according and in proportion to the number of civil and criminal actions entered and commenced in the district courts of such counties respectively in the preceding year; and it shall be the duty of the judge of such district, on the first day of January of each year, or as soon thereafter as may be, to apportion the amount of such salary to be paid by each county in his district on the basis aforesaid. The *reporter* is allowed, in addition to the salary and fees above provided, in judicial districts comprising more than one (1) county, his actual and necessary expenses of transportation and living when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto, said expenses to be apportioned and payable in the same way as the salary."

Additional allowances.

Amending clause.

Section 7. That section 93-1907 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Reporter pro tempore—appointment—oath.

"93-1907. (8934) *Reporter* **pro tempore.** The *reporter* of any district court must attend to the duties of his office in person, except when excused for good and sufficient reason by order of the court, which order must be entered upon the minutes of the court. Employment in his professional capacity elsewhere is not a good and sufficient reason for such excuse. When the *reporter* of any court has been excused in the manner provided in this section, the court may appoint a *reporter* pro tempore, who must take the same oath and perform the same duties and receive the same compensation during the time of his employment as the regular *reporter.*"

Amending clause.

Section 8. That section 93-1908 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Certified transcript as prima facie evidence.

"93-1908. (8935) *Reporter's* **report prima facie evidence.** The report of the *reporter,* or *reporter* pro tempore, of any court, duly appointed and sworn, when written out in long handwriting, or printed in type, and certified as being a correct transcript of the testimony and proceedings in the case, is prima facie a correct statement of such testimony and proceedings."

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Repealing clause.

Section 9. Repeal Clause. Any act or part of any act in conflict herewith, in whole or in part, is hereby repealed to the extent of such conflict.

Approved February 14, 1961.

CHAPTER 23

An Act to Amend Section 75-1529, Revised Codes of Montana, 1947, Relating to the Publication of Annual Financial Statements of School Districts by the County Superintendent of Schools; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1529, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

County superintendent of schools must publish annual financial statement.

"75-1529. **Publication of annual financial statements of school districts.** It shall hereafter be the duty of all county superintendents of schools to publish annually within *ninety* days of the close of the school year a statement of the financial conditions and transactions of all school districts in the county; said report shall be published once in some newspaper of general circulation printed and published in the county, and shall contain the following information:

Required information.

"First.—A statement of all moneys received by *each* school district in the county, and from what source derived.

"Second.—A summary of all the moneys paid out, in each of the school districts of the county, showing the total amount expended in each district for *all general fund expenses, for all transportation fund expenses, for all bus depreciation reserve fund expenses, for all expenses of the self-supporting school lunch fund, for all tuition fund expenses, for all retirement fund expenses, for all debt service fund expenses, for all adult education fund expenses, for all housing and dormitory fund expenses, for all expenses of the miscellaneous federal funds for special purposes, for all building fund expenses* and any other miscellaneous expense."

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 15, 1961.

CHAPTER 24

An Act to Permit Two or More Counties, by Contract, to Establish Joint County Youth Guidance Centers; to Provide for Apportionment of Costs Among the Contracting Counties on Such a Basis to be Agreed Upon by Said Contracting Counties.

Be it enacted by the Legislative Assembly of the State of Montana:

Joint county youth guidance centers authorized.

Section 1. Two or more counties of this state, may through action of their respective boards of county commissioners, join together by contract in the establishment of a joint county youth guidance center. The costs and expenses of such joint county youth guidance center shall be apportioned between or among the contracting counties on such a basis as to be agreed upon by said contracting counties.

Approved February 15, 1961.

CHAPTER 25

An Act to Amend Section 75-4506, Revised Codes of Montana, 1947, Providing for the Determination of the Maximum Budget for High Schools of School Districts Maintaining More Than One High School; Containing a Repealing Clause; and Fixing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-4506, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Determining maximum budget in school districts of more than one high school.

"75-4506. **Budgeting in school districts of more than one high school.** In school districts maintaining more than one high school the maximum budget which may be adopted for such high schools under section 75-4505, may be determined either by taking each school separately

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and finding the maximum budget which might be adopted therefor under said section and then adding together the maximums for all such high schools, or by using the maximum under said section for the total combined number of all eligible pupils in all such high schools, *provided that all the high schools operated by a school district or county within the incorporated limits of a single city or town shall be treated as a high school unit for the purpose of determining the maximum budget.*"

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval. Effective immediately.

Approved February 15, 1961.

CHAPTER 26

An Act to Provide for the Repeal of Chapter 26 of the Revised Codes of Montana, 1947, Being Sections 75-2601, 75-2602, 75-2603, 75-2604, 75-2605, 75-2606, 75-2607, 75-2608, Relating to Teachers' Institutes and Summer Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That chapter 26, consisting of sections 75-2601, 75-2602, 75-2603, 75-2604, 75-2605, 75-2606, 75-2607, 75-2608, Revised Codes of Montana, 1947, be, and the same are hereby repealed. Repealing clause.

Approved February 15, 1961.

CHAPTER 27

An Act to Amend Section 31-145, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 165, Laws of 1957, Relating to Requirement That Courts Forward Licenses and Reports of Conviction to Board; Requiring Courts to Forward Records of Bail Forfeitures Not Vacated; Providing That Bail or Collateral Forfeiture Not Vacated Will be Equivalent to Conviction for Pur-

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pose of Act; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-145, Revised Codes of Montana, 1947, as amended by section 1, chapter 165, Laws of 1957, be, and the same is hereby amended to read as follows:

Court to require surrender of driver's license on conviction.

"31-145. **When court to forward license to board and report convictions.** (a) Whenever any person is convicted of any offense for which this act makes mandatory the revocation of the operator's or chauffeur's license of such person by the board, the court in which such conviction is had shall require the surrender to it of all operator's and chauffeur's licenses then held by the person so convicted. The court shall thereupon forward said license to the board and at the same time forward a record of such conviction to the board, providing that if such person does not possess a driver's license the court shall so indicate in its report to the board.

Court to forward license and record of conviction.

Court to forward record of conviction or forfeiture of bail.

"(b) Every court having jurisdiction over offenses committed under this act, or any other act of this state or municipal ordinance regulating the operation of motor vehicles on highways, shall forward to the board a record of the conviction *or forfeiture of bail, not vacated,* of any person in said court for a violation of any said laws other than regulations governing standing or parking, and may recommend the suspension of the operator's or chauffeur's license of the person so convicted.

Court may recommend suspension.

Conviction defined.

"(c) For the purposes of this act the term 'conviction' shall mean a final conviction. Also, for the purposes of this act a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be *equivalent to a conviction.*

Period of revocation.

"(d) Any person convicted of any offense which makes mandatory the revocation of the operator's or chauffeur's license, such period of revocation shall commence from date of conviction or forfeiture of bail."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved February 15, 1961.

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CHAPTER 28

An Act to Amend Section 5 of Chapter 7, Laws of 1959 (Designated as Section 75-5205, Revised Codes of Montana, 1947, 1959 Supplement), Relating to the Composition of the Advisory Board of the Montana Law Enforcement Academy; to Provide That a Representative of the Federal Bureau of Investigation and a Representative of the Montana Police Protective Association be Included on the Advisory Board of the Montana Law Enforcement Academy, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5 of chapter 7, laws of 1959, also designated as section 75-5205, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Appointment of advisory board to govern Montana law enforcement academy.

"Section 5. **Advisory board.** The Montana law enforcement academy shall be governed by an advisory board composed of one representative of each of the following organizations or departments to be appointed by the president, chief executive or officer in charge of each of the following departments or organizations: The Montana sheriffs and peace officers association, the Montana chiefs of police association, the county attorneys association, the attorney general's office, the Montana municipal league, the Montana county commissioners association, *the Federal Bureau of Investigation, the Montana Police Protective Association* and that unit of the university of Montana selected as a site for the academy. The representative of the university unit shall be selected after the site has been determined by the other members of the Montana law enforcement academy advisory board. The members of the advisory board shall be appointed for a term of one year and shall serve without compensation."

Term— no compensation.

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 15, 1961.

CHAPTER 29

An Act to Amend Section 66-1002 of the Revised Codes

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of Montana, 1947, Relating to Organization of Board, Register and Rules; to Amend Section 66-1003 of the Revised Codes of Montana, 1947, as Amended by Chapter 119 of the Laws of the Thirty-fifth Legislative Assembly, 1957, Relating to the Definition of an Approved Medical University, College or School and Relating to the Branches and Subjects of Medicine and Surgery Concerning Which the Examination Given Applicants for License to Practice Medicine and Surgery Shall Cover; to Amend Section 66-1004 of the Revised Codes of Montana, 1947, Relating to Qualifications of Jurors to Sit on Appeals to the District Court and Relating to Fees of Such Jurors; to Amend Section 66-1008 of the Revised Codes of Montana, 1947, Relating to Fees for Examination for Admittance and Annual License Fees; to Amend Section 66-1009 of the Revised Codes of Montana, 1947, Relating to Compensation and Expenses Allowed Board Members and Repealing All Acts and Parts of Acts in Conflict Herewith, and Providing That Said Act Shall be in Full force and Effect From and After July 15, 1961.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-1002 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Board of medical examiners must elect officers.

"66-1002. (3117) **Organization of board—Register—Rules.** The board of medical examiners must, on the *second* Tuesday of *January* of each year, elect from among their number a president, vice president, secretary, and

Official seal.

treasurer. The board must adopt a seal, upon which shall appear the words, 'The board of medical examiners of Montana' and the further words, 'official seal,' and all acts, rules and regulations, certificates and licenses shall

Quorum.

be authenticated by said seal. Four members of said board

Power to administer oaths.

shall constitute a quorum. The president and secretary shall have power to administer oaths in examination of applicants for certificates, and to witnesses called before the board in the transaction of business, hearings or other

Meetings of board.

proceedings under the provisions of this act. The board of medical examiners must hold meetings for examinations at the seat of government on the *second* Tuesday in *January* and in *July* of each year, and may hold meetings at such other times and at the same, or other places, as

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the board or its officers herein authorized may determine. The board must keep a record of all its proceedings and also a register of all applicants for a certificate, with the age of the applicant, time spent in the study of medicine, and the name and location of all the institutions granting to such applicant degrees or certificates of lectures attended, in medicine and surgery. The register must also show whether applicant was rejected, or has received a certificate under this act; such register is prima facie evidence of the verity of all the matters kept therein. The president or the secretary of the board may call such special meetings of the board as may be deemed advisable or necessary. The board shall have the power to make, prescribe and promulgate rules and regulations to carry out and enforce the terms and provisions of the medical practice act of the State of Montana, and as amended or supplemented, including rules and regulations governing admission by reciprocity."

Record and register must be kept.

Special meetings.

Power to make rules.

Section 2. That section 66-1003 of the Revised Codes of Montana, 1947, as amended by chapter 119 of the laws of the thirty-fifth legislative assembly, 1957, be and the same is hereby amended to read as follows:

Amending clause.

"66-1003. (3118) **Examination and qualifications of applicants.** Every person who is an applicant to practice medicine and surgery in the State of Montana shall apply to said board of medical examiners for a certificate so to do. Every person applying shall present his or her diploma to the said board for verification as to its genuineness;

Application for certificate to practice medicine and surgery in state.

"(a) if the diploma is found to be genuine, and is issued by a university, college or school *which conforms to the minimum educational standards for medical colleges as established in the sound discretion of the board of medical examiners of the State of Montana, it being provided that said board shall have the authority, upon investigation of the educational standards and facilities thereof, to approve any medical college, including foreign medical schools and colleges,* and

Board may approve diploma.

Authority to approve medical schools.

"(b) if the person presenting and claiming said diploma be the person to whom the same was originally granted, said person shall thereupon, submit to an examination at a time and place designated by said board,

Examination of applicants.

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which may be the time and place of a regular meeting of said board, in and upon each of the following branches of medicine and surgery, to-wit: Anatomy *and its subdivisions,* physiology *and pharmacology, bacteriology, pathology,* surgery, *medicine,* obstetrics *and gynecology, pediatrics,* diseases of the nervous system, diseases of the eye, ear, *nose and throat, and such other subjects as the board may prescribe.* Said board shall cause such examination to be both scientific and practical, and of sufficient breadth, thoroughness and intensity to test the candidate's fitness to practice medicine and surgery. After examination, such board, if the candidate has been found qualified, shall grant a certificate to such candidate to practice medicine and surgery in the State of Montana, which said certificate can be granted only by the consent of not less than four (4) members of said board, and which said certificate shall be signed by the president and signed and attested by the secretary of said board and authenticated by the seal thereof; provided, however, that in all cases where an applicant for a certificate under this section shall produce and exhibit to said board a genuine certificate from a board of medical examiners (however designated by the law of any other state or a Province of Canada) duly appointed and existing under the laws of any state of the United States or a Province of Canada, and which state or Province of Canada through its said board recognizes certificates or licenses issued by the board of medical examiners of Montana, certifying to the facts:

Board shall grant certificate—consent of not less than four members.

Proviso:

Presentation of foreign certificate to board.

Reciprocity.

"(1) that the person presenting such certificate is duly and well qualified to practice medicine and surgery in the state or Province of Canada issuing said certificate, and that said board issuing said certificate has subjected the applicant to a thorough written examination to ascertain this fact, or certifying to the facts;

Factual requirements.

"(2) that the person presenting such certificate is duly and well qualified to practice medicine and surgery in the state or Province of Canada issuing said certificate; and to the further fact, if such is the case, that said applicant was exempt from examination under the provisions of the law of said state or a Province of Canada, by reason of his residence in said state or a Province of Canada in the active practice of medicine and surgery at the time of the passage in said state or a Province of Canada of said law requiring the examination of appli-

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cants to practice medicine and surgery; and if said board of medical examiners is satisfied and finds that the requirements for admission to the practice of medicine and surgery in such other state or a Province of Canada, past or current, are the equivalent of the Montana requirements; he or she may, in the sound discretion of said board of medical examiners of Montana, upon paying the fee required of applicants for examination under the provisions of section 66-1008, and otherwise complying with all the requirements of the medical practice act of Montana, receive from said board of medical examiners of Montana a certificate to practice medicine and surgery within this state, and upon *recording* said certificate with the county clerk of the county in which he resides, as provided in section 66-1005, said person shall be a legally qualified practictioner of medicine and surgery in the State of Montana; provided, however, that the board may, in any case of an applicant for admission by reciprocity, require a full written examination of said applicant. During any period intervening between the regular meetings of said board of medical examiners, any person desiring to practice medicine in this state may present his or her diploma to the president or secretary of said board, who may, upon the concurrence of any four (4) members of the board, issue a temporary certificate to practice, valid only until the next regular meeting of said board.

Recording certificate.

Board may require examination.

Temporary certificate.

"All physicians and surgeons who hold certificates heretofore granted by the existing board of medical examiners of Montana, or who are now legally entitled to practice medicine and surgery in this state, shall be exempt from the provisions of this section. Licenses or certificates to practice medicine and surgery in the State of Montana shall be issued only to citizens of the United States of America or to subjects of the Dominion of Canada who have filed their declaration of intention to become a United States citizen; provided, however, that the board of medical examiners shall have the power to annul and revoke any license or certificate issued to any physician and surgeon who has filed his declaration of intention to become a United States citizen, and who thereafter fails to become naturalized within the time and manner provided for and prescribed by Congress. The board may, by specific regulation, prescribe and enforce reciprocity

Exemption.

Other requirements.

Power of board to annul or revoke.

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requirements current with changes in standards in the practice of medicine and surgery."

Amending clause.

Section 3. That section 66-1004 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

No person to practice medicine without certificate.

"66-1004. (3119) **Examination of applicants for certificates—Revocation of certificates—Appeals from decision of board.** (1) No person not heretofore licensed to do so shall be permitted to practice medicine in the State of Montana, unless he shall have first been subjected to a thorough examination as to his qualifications, learning, and professoinal skill by the state board of medical examiners, nor until he has been issued a certificate by such board, after such examination, admitting him to practice as a physician and surgeon in the State of Montana. The board may refuse to grant a certificate for unprofessional, dishonorable, or immoral conduct.

Notice and hearing on refusal of certificate.

"(2) Before a certificate can be refused for such cause, the board must serve in writing upon the applicant a copy of any charge or charges against him, and appoint a day for hearing, at which the applicant or any witness in his behalf may appear and give testimony in refutation of such charges. In case the board, after such hearing, refuse a certificate to the applicant, the decision specially

Written decision.

stating the ground upon which such refusal was made must be reduced to writing and a copy thereof delivered to the applicant upon demand. Upon a like hearing the board may refuse a certificate to any one who may publicly profess to cure or treat disease, injury, or deformity, in such a manner as to deceive the public. The hear-

Time for hearing.

ing provided for herein must take place within twenty days after the service of the copy of the charges upon the applicant, unless further time is granted to the applicant, and the decision of the board must not be later than ten days after the day of hearing. If the decision is not rendered within said period of ten days, the applicant is not subject to any penalties for practicing without a certificate during the time that elapses before the decision is made.

Board may revoke certificate for cause.

"(3) The board, with the concurrence of four members thereof, may revoke a certificate for unprofessional, dishonorable, or immoral conduct. Before such revoca-

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tion can take place, a written complaint, specifically stating the charges against the person whose certificate is sought to be revoked, must be delivered to the board, and a copy thereof be served upon such person twenty days before the time fixed by the board for the hearing of such charges. The board must fix the time and place for the hearing, at which the person charged may appear and produce testimony in refutation of such charges. If, after such hearing, the board revoked the certificate of such person, the ground upon which such revocation is made must be specifically stated by the board in writing, and a copy thereof delivered, on demand, to the person whose certificate is revoked.

Written complaint.

Service.

Hearing.

Grounds for revocation must be written.

"(4) In all cases of the refusal or the revocation of a certificate to practice medicine by said board, the person aggrieved thereby may appeal from the decision of the board as hereinafter provided. An appeal may be taken from the action of the state board of medical examiners in refusing to issue a certificate to practice medicine and surgery to any applicant after examination, or from the action of said board in revoking the certificate of any physician or surgeon, to the district court of the county in which such revocation or refusal was made. The appeal is taken by serving notice of appeal upon the secretary of the board of medical examiners and the attorney general of the state, within thirty days after notice from the board of medical examiners of its decision, and by filing within the same time with the clerk of the proper district court a verified copy of the decision from which the appeal is taken, together with a verified copy of any charge or charges preferred against the applicant and filed with the board of medical examiners.

Appeal from decision of board.

Service of notice of appeal.

Filing in district court.

"(5) The appellant is required, at the time of filing such appeal, to furnish and file with the clerk of the court a good and sufficient bond, to be approved by the clerk of the court, with two good and sufficient sureties, in the sum of three hundred dollars, guaranteeing the payment of all costs of the appeal should the case be decided against the appellant, and the costs shall consist of the sheriff's fees for serving jurors, jurors' fees, and the fees of the clerk of the court. Such appeal shall thereafter be tried by the district court before a jury of six physicians, and in case such jury cannot be obtained in the county where

Appellant must file bond for costs.

Appeal tried before jury of six physicians.

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the case is tried, the judge of such court shall order subpoenas for physicians from any adjoining county or counties, which subpoenas shall be served by the sheriff of such adjoining county upon receipt, after the clerk of the court where the subpoena is issued shall have sent by registered mail such subpoena to such sheriff. Bias or prejudice or fixed opinion shall constitute a ground of challenge to a juror for cause, and the appellant and the medical board shall each have the right to peremptorily challenge not more than two of such jurors.

Challenge for cause.

Peremptory challenges.

"(6) When the jury shall have been selected and sworn to try the cause, they constitute a higher examining board for the purpose of inquiring into whether or not the judgment of the board of medical examiners should be affirmed or overruled upon the issues presented to such board, and such jury may make such examination of the appellant as they may deem necessary or desirable. It shall take four of the jury to render a verdict, and no member of the medical board is qualified to act as a juror. The attorney general is hereby made the attorney for said board. Jurymen subpoenaed under this act shall be entitled to mileage at the rate of ten cents per mile for each and every mile by them actually traveled in attending upon the court, and of *six* dollars per day for their services."

Jury constitutes higher examining board.

Four may render verdict.

Allowance and pay.

Amending clause.

Section 4. That section 66-1008 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Fees for examination.

"66-1008. (3123) **Fees for examination for admittance—Annual license.** (1) Candidates for examination shall pay in advance to the secretary of the board of medical examiners a fee of *seventy-five* dollars *($75.00)*, which fee shall defray the entire expenses of said candidate for examination before the board of medical examiners. Any one failing to pass the required examination shall be entitled to a second examination within six months without additional fee. Candidates who shall be granted certificates to practice medicine and surgery in the State of Montana under the reciprocity provisions of section 66-1003 without examination, shall, before receiving certificate of authorization to practice medicine in this state, pay to the secretary of the board of medical examiners a fee of *one hundred* dollars *($100.00)*.

Fee for certificate granted by reciprocity.

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Annual registration fee.

"(2) In addition to the respective license fees required of applicants, every licensed physician and surgeon practicing within the State of Montana shall pay each and every year to the secretary of the board, an annual registration fee not to exceed the sum of *ten* dollars *($10.00)*, as may be prescribed by the board. The monies so received from the foregoing and every other source, shall be turned over, by said secretary, to the state treasurer, and shall be by the state treasurer deposited in the board of medical examiners fund as provided by law. In the event any person licensed to practice medicine absents himself from the state for a period of one or more years, or does not engage in active practice within the State of Montana, he may continue his license in good standing by the payment of *three* dollars *($3.00)* each year, or, at the discretion of the board, he may be reinstated upon the payment of a fee of *three* dollars *($3.00)* for each year's absence.

Fees to continue or reinstate license.

Time for payment.

"(3) Such annual payments for registration shall be made prior to *January* first in each and every year, and receipt of certificate of annual registration therefor shall be issued by the secretary of the board. In case of default in the payment of the annual registration fee by any person licensed to practice medicine and surgery, his underlying certificate to practice medicine and surgery shall be revoked by the board upon thirty (30) days' notice given to the delinquent of the time and place of considering such revocation. A registered letter addressed to the last known address of the person failing to comply with the requirement of annual registration, as such address appears upon the records of the board, shall constitute sufficient notice of intention to revoke his underlying certificate, but no certificate shall be revoked for such nonpayment if the person authorized to practice medicine, and so notified, shall pay such annual registration fee before or at the time fixed for consideration of revocation together with a delinquency penalty of *ten* dollars *($10.00)*; provided further, that said board may collect any such dues by action at law."

Effect of default.

Notice of hearing on revocation.

Penalty.

Amending clause.

Section 5. That section 66-1009 of the Revised Codes of Montana, 1947, be and same is hereby amended to read as follows:

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Compensation and allowances to board, clerks, counsel and secretary.

"66-1009. (3124) **Compensation and expenses allowed board member—Employment of clerks and counsel—Secretary's compensation.** Each member of the board is hereby allowed the sum of *twenty* dollars *($20.00)* per day and mileage while in the active and necessary discharge of his duties as a member of said board. There is hereby established a fund to be known as the board of medical examiners fund. All monies in such fund shall only be paid out by warrant drawn on said fund after an order therefor drawn by the secretary, and countersigned by the president, of said board. The rate of mileage and attendance of witnesses before said board shall be the same as is now allowed in justice of the peace courts. The board must report annually on the first Monday of November to the governor, which report must show all the transactions of the board, giving the number of applications received, and from whom received, the number of certificates granted and those rejected, giving the reasons therefor, the amount of money received, the expenses, the fees and mileage paid, and by whom received, and the amount of money remaining in said fund. The board may employ such clerical help and legal counsel as may be necessary to carry out the terms and provisions of this act. Such clerical help and counsel must be compensated only out of the said fund as fixed by the board. The secretary of the board shall receive such reasonable compensation for his services as may be fixed by said board."

Medical examiners' fund.

Annual report to governor.

Board may employ clerical help and legal counsel.

Repealing clause.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 7. This act shall be in full force and effect from and after July 15, 1961.

Approved February 15, 1961.

CHAPTER 30

An Act Relating to Special Rural Improvement Districts in Counties; Amending Section 16-1601, Revised Codes of Montana, 1947, to Permit Improvement Districts for Building, Construction and Maintenance of Devices Intended to Protect the Safety of the Public From Open Ditches Carrying Irrigation or Other Water.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-1601, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"16-1601. (4574) **Rural improvement districts—Creation and objects.** Whenever the public interest or convenience may require, and upon the petition of sixty per centum (60%) of the freeholders affected thereby, the board of county commisisoners is hereby authorized and empowered to order and create special improvement districts in thickly populated localities outside of the limits of incorporated towns and cities for the purpose of building, constructing and maintaining *devices intended to protect the safety of the public from open ditches carrying irrigation or other water,* sanitary and storm sewers, light systems, waterworks plants, water systems, sidewalks and such other special improvements as may be petitioned for." Rural improvement districts—creation. Objects.

Approved February 15, 1961.

CHAPTER 31

An Act to Provide That a City or Town May Invest Moneys From Funds for Which There is no Immediate Demand, in the Purchase of Outstanding City or Town Warrants, Providing the Warrants That May be so Purchased, and the Manner in Which Such Warrants Shall be Purchased, and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Investment of city or town moneys in city or town warrants.** Whenever the city or town has under its control any moneys, for which there is no immediate demand, in any fund which, in the judgment of the city or town council, it would be advantageous to invest in city or town warrants, the city or town council is authorized in their discretion to direct the city or town treasurer to purchase legally issued city or town general obligation warrants of the same city or town, thereafter issued against funds in which there is not sufficient money to pay such city or town warrants at the time of issuance, and in case of such purchase, the city or town council shall designate Investment of city or town moneys in warrants.

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the fund or funds, to be so invested, and shall fix the amount thereof, and shall also designate the city or town warrant or warrants which are to be purchased by such funds. The city or town clerk shall thereupon cause to be attached to, or stamped, written or printed upon the warrants so ordered to be purchased a notice to the effect that the city or town will exercise its preference right to purchase such warrant. The city or town treasurer shall thereafter, when such city or town warrant is presented to him, purchase the same out of the proper fund as designated by the city or town council, and the warrant so purchased shall be registered as other city or town warrants, and bear interest as provided by law. When the designated amounts have been invested the city or town treasurer shall notify the city or town clerk.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 16, 1961.

CHAPTER 32

An Act Relating to Special Improvement Districts in Cities and Towns; Amending Section 11-2202, Revised Codes of Montana, 1947, to Permit Improvement Districts for Building, Construction and Maintenance of Devices Intended to Protect the Safety of the Public From Open Ditches Carrying Irrigation or Other Water.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-2202, Revised Codes of Montana, 1947, is amended to read as follows:

City council authorized to create special improvement districts.

"11-2202. (5226) **Special improvement districts — Placing wires underground — Cost per lineal foot.** (1) Whenever the public interest or convenience may require, the city council is hereby authorized and empowered to create special improvement districts, *for building, constructing and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water,* and order the whole, or any portion or portions, either in length or width, of any one or more of the streets, avenues, alleys, or places or public ways of any

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such city, graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, graveled or regraveled, piled or repiled, capped or recapped, surfaced or resurfaced, oiled or reoiled, and to order the construction or reconstruction therein of sidewalks, crosswalks, culverts, bridges, gutters, curbs, steps, parkings, including the planting of grassplots and setting out of trees; sewers, ditches, drains, conduits, and channels for sanitary and drainage purposes, or either or both thereof, with outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, connecting sewers, ditches, drains, conduits, channels, and other appurtenances; water-works, water mains, and extensions of water mains; pipes, hydrants, hose connections for irrigating purposes; appliances for fire protection, tunnels, viaducts, conduits, subways, breakwaters, levees, retaining walls, bulkheads, and walls of rock or other material to protect the same from overflow or injury by water; the opening of streets, avenues, and alleys; the planting of trees thereon; and to maintain, preserve and care for any and all of the improvements herein mentioned; and the construction or reconstruction in, over, or through property or rights of way owned by such city, of tunnels, sewers, ditches, drains, conduits, and channels for sanitary and drainage purposes, or either or both thereof, with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, connection sewers, ditches, drains, conduits, channels, and other appurtenances; pipes, hose connections for irrigating, hydrants and appliances for fire protection; and breakwaters, levees, retaining walls and bulkheads; walls of rock or other material to protect the streets, avenues, lanes, alleys, courts, places, public ways, and other property in any such city from overflow by water; and to order any work to be done which shall be deemed necessary to improve the whole or any portion of such streets, avenues, sidewalks, alleys, or places or public ways, or property, or right-of-way of such city. The city council is also hereby authorized to create a district as hereinafter specified, for the purpose of defraying the cost of acquiring private property for the purpose of opening, widening, or extending any street, avenue, or alley within the corporate limits of such city.

"(2) It is further provided that the council shall have the same jurisdiction and powers as in this section

Power to require underground conduits.

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above provided, to (before doing any of the work mentioned in this act) require any public service corporation, or company, firm, or person occupying such streets, avenues, or alleys, at their own expense and within a reasonable time to be fixed by the council, place in an underground conduit in such manner as may be directed by the city council, all wires, electric conduits, telephone, telegraph, power, or power transmission lines, or appurtenances thereto, or appliances owned, held, or enjoyed in connection therewith; provided, however, that the whole cost so assessed shall at no time exceed the sum of one dollar and fifty cents per lineal foot, plus the cost of the pipe so laid of the entire length of the water mains laid in such district."

Approved February 16, 1961.

CHAPTER 33

An Act to Amend Section 59-510, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 22, Laws of 1951, as Amended by Section 1, Chapter 253, Laws of Montana, 1957, by Providing that All Full Time Salaried County and City Employees Shall Work a Minimum of Forty (40) Hours Per Week.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 59-510, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Hours of business—public offices.

Minimum 40-hour week for county and city employees.

"59-510. (453) **Office and employee hours.** Unless otherwise provided by law every officer must keep his office open for the transaction of business continuously from eight o'clock A.M. until five o'clock P.M. each day except Saturdays and legal holidays. *All full time salaried county and city employees shall work a minimum of forty (40) hours per week.* Every officer shall keep his office open at such other times as the accommodation of the public or the proper transaction of business requires, excepting the state treasurer and county and city treasurers, who, in their discretion, may, in the interest of the safekeeping of funds, securities and records under their control, close their offices during the period from twelve o'clock noon to one o'clock P.M. every day.

Approved February 23, 1961.

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CHAPTER 34

An Act to Amend Sections 66-905, 66-906, 66-910, 66-911, and 66-917 of the Revised Codes of Montana of 1947, the Same Being Sections of the Montana Dentistry Regulation Act; to Authorize the State Board of Dental Examiners to Recognize Certificates Granted by the National Board of Dental Examiners in Lieu of or Subject to Examination; to Provide for Increasing Certain Fees Payable Under the Provisions of Said Act, and Providing Penalties for Late Payment of Fees; to Require Making and Preserving Work Authorizations for the Construction, Making, Altering or Repairing of Bridges, Crowns, Dentures, or Other Prosthetic Appliances or Surgical Appliances or Orthodontic Appliances by Person Other Than Licensed Dentists; to Limit Advertising by Persons Other Than Licensed Dentists Employed or Engaged in Constructing, Making, Altering or Repairing of Bridges, Crowns, Dentures, or Other Prosthetic Appliances or Surgical Appliances or Orthodontic Appliances; to Provide for Injunction Suits to Enjoin Violations of the Montana Dentistry Regulation Act; to Limit the Publication of Professional Cards and Other Advertising by Dentists; to Include a Severability Clause; and to Repeal All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-905 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

"66-905. (3115.5) **Dentistry examinations — Application — Contents— Fees — Undergraduate examination — Regulations for examination — Notice — Scope of examination — Dentist certificates — Fee — Form — Retention and inspection of examination papers.**

Application and fee for examination to practice dentistry.

(1) Any person desiring to commence the practice of dentistry in the State of Montana after this act takes effect, shall file in his or her full name, an application for examination, with the secretary-treasurer of the state board of dental examiners at least twenty (20) days before the date set by the board for the commencement of such examination, and at the time of making such application the applicant shall (a) pay to the secretary-treas-

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urer of the board a fee of twenty-five dollars ($25.00), (b) shall furnish the board with at least three (3) satisfactory affidavits of good moral character, (c) shall present to said board his or her diploma or satisfactory evidence of having graduated from a recognized dental school or college, which must have been approved by said board, and (d) shall furnish the board a recent photograph of the applicant.

Student examination—fee.

"(2) The board may, in its discretion, permit any dental student who shall have successfully completed his or her junior year in a recognized dental school, and who files proof satisfactory to the board that he or she has the preliminary education in this section described, to take written examination in such subjects as he or she has completed, and all satisfactory grades there secured shall be credited upon the final examination of such student. The board shall require a fee of twenty-five dollars ($25.00) for such examination, which fee shall apply on the final examination to be taken by such applicant.

Board to adopt rules governing examination.

"(3) The board shall adopt a uniform code of rules and regulations within the limitations of this act, governing the matter of examinations for license to practice dentistry in the State of Montana, which examinations shall be open to any applicant meeting the requirements of this act, and shall also provide in such code for giving reasonable notice of the time and place where examinations shall be held.

Nature of examination.

"(4) The examination hereinabove referred to shall be practical in character and sufficiently thorough to test the fitness of the applicant to practice dentistry. It shall include, written in the English language, questions on any or all of the following subjects: Anatomy, histology, physiology, chemistry, materia medica and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, and orthodontia, and any additional subjects pertaining to dental service. Said written examination may be supplemented by oral examinations. Demonstrations of the applicant's skill in operative and prosthetic dentistry shall also be required. Said examination shall be conducted under oath or affirmation before said board, and any member of said board is empowered to administer the necessary oath or affirmation. *The state board of dental*

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examiners may recognize a certificate granted by the national board of dental examiners in lieu of or subject to such examinations as the state board may require.

Board may recognize certificate of national board.

"(5) All persons successfully passing such examination shall be registered as licensed dentists in the board register, as hereinabove provided and, upon payment of an additional twenty-five dollars ($25.00) shall receive a certificate signed by the president and secretary of said board, in substantially the following form, to-wit:

Certificate to practice.

License fee.

"This is to certify that ..... is hereby licensed to practice dentistry in the State of Montana. This certificate must be filed for registration in the office of the county clerk of any county in which the dentist holding such certificate desires to practice, and it is unlawful for him or her to practice dentistry in any county in which said certificate is not filed for registration.

Form.

Dated at....., this.....day of....., 19....."

"Examination papers of any applicant shall be retained two (2) years by the secretary-treasurer of the board and may then be destroyed, and while so retained shall be open to inspection only by board members, the applicant himself, or by some person appointed by such applicant to examine same, or by a court of competent jurisdiction in a proceeding where the question of the contents of such paper or papers is properly involved.

Retention and inspection of examination papers.

"(6) No person shall be qualified to be licensed to practice dentistry in this state or to have issued to him or her a certificate to practice dentistry in this state who is not a citizen of the United States of America."

Citizenship required.

Section 2. That section 66-906 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"66-906. (3115.6) **Certificate to be registered in counties where practicing — Replacing lost certificates — Second examination on failure — Admission of dentists from other states — Reciprocity — Annual license fee — Reduction allowed, when — Inactive fee — Due date of annual fee — Revocation of license for failure to pay.**

(1) The certificate in this act provided for shall entitle

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Certificate to be filed in office of county clerk and recorder.

the holder thereof to practice dentistry in any county in the State of Montana, provided such certificate shall first be filed for registration and registered in the office of the county recorder of the county in which such holder desires to practice, and nothing herein contained shall be construed to permit any holder of any certificate to practice in any county in this state unless such certificate shall have been first registered in the office of the recorder of such county as herein provided; provided further that any such holder of a certificate may practice in more than one or in any number of counties in this state on having such certificate registered in each of such counties in which such holder desires to practice. Said board of dental examiners shall, upon satisfactory proof of the loss of any such certificate issued under the provisions of this act, issue a duplicate certificate in place thereof, and a fee of *five dollars ($5.00)* shall be charged for issuing such certificate. Any person failing to pass his first examination before such board, may demand a second examination at any subsequent meeting of said board held for the purpose of examining candidates, and no fee shall be charged for any subsequent examination.

Duplicate certificate.

Fee.

Reciprocal certificates—requirements.

"(2) Any dentist who has been (1) lawfully licensed to practice in another state or territory which has and maintains a standard for the practice of dentistry or dental surgery which in the opinion of the board is equal to that at the time maintained in this state, and (2) who is a graduate of an accredited four year high school or has actual scholastic credits equivalent to a four year high school course and (3) who is a graduate of a recognized dental school or college, and (4) who has been lawfully and continuously engaged in the practice of dentistry for five years or more immediately before filing his application to practice in this state and (5) who shall deposit in person with the secretary-treasurer of the board a duly attested certificate from the examining board of the state or territory in which he is registered and/or licensed, certifying to the fact of his registration and license and of his being a person of good moral character and of professional attainments, may, (6) upon the payment of a fee of fifty dollars ($50.00) and (7) after satisfactory practical examination demonstrating his proficiency, be granted a license to practice dentistry in this state, without being required to take an examination in theory. Provided, however, that

Fee—examination.

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no license shall be issued without an examination in theory to any such applicant, unless the state or territory from which such certificate has been granted to such applicant shall have extended a like privilege to engage in the practice of dentistry within its own borders to dentists heretofore and hereafter licensed by this state, and removing to such other states; and provided, further, that the state board of dental examiners of the State of Montana shall have power to enter into reciprocal relations with similar boards of other states whose laws are practically identical with the provisions of this act.

Annual license fee.

"(3) In addition to the license fee required of applicants every licensed dentist practicing within the State of Montana shall pay in each and every year to the secretary-treasurer of the board, the sum of *seven dollars ($7.00)*, as a license fee for such year, provided, however, that the board shall have the power to reduce the annual license fee of *seven dollars ($7.00)* to the sum of one dollar ($1.00) or more (but not in excess of *seven dollars ($7.00)* per year when the amount of the balance of cash in the hands of the secretary-treasurer reaches the sum of *eight thousand dollars ($8,000.00)*, it being the intent of this act that said fund shall be maintained at an approximate level of *eight thousand dollars ($8,000.00)*. Notice of such change in the amount of dues shall be given to each dentist registered in the state by the secretary-treasurer. *In the event the payment of the annual license fee is not made prior to the first day of May by either practicing dentists or dentists not engaged in the active practice within the State of Montana, an additional penalty of three dollars ($3.00) shall be charged for late payment which shall be in addition to any other fee requirements of this section.*

Maximum fund.

Penalty for late payment.

Continuation of license.

"(4) In the event any registered dentist absents himself from the state for a period of one or more years, or does not engage in active practice within the State of Montana, he may continue his license in good standing by the payment of *five dollars ($5.00)* each year, or at the discretion of the board, he may be reinstated upon the payment of a fee of *five dollars ($5.00)* for each year's absence. Such annual payments shall be made prior to May first in each and every year, and receipt or certificate therefore shall be issued by the secretary-treasurer of the board. In case of default in payment of annual license

Fee.

Reinstatement fee.

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Revocation for non-payment.

Notice.

fee by any dentist, his license shall be revoked by the board upon thirty days' notice given to the delinquent of the time and place of considering such revocation. A registered letter addressed to the last known address of the party failing to comply with this requirement, as such address appears upon the records of the board, shall constitute sufficient notice of revocation of license, but no license shall be revoked for such nonpayment if the dentist so notified shall pay such license fee *plus the late payment penalty of three dollars ($3.00)* before or at the time fixed for consideration of revocation together with *an additional* delinquency penalty of five dollars *($5.00);* provided further that said board may collect any such dues by law."

Amending clause.

Section 3. That section 66-910 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Practice of dentistry defined.

"66-910. (3115.10) **Practice of dentistry defined — Persons conducting business through licensed dentist — Exceptions.** Any person shall be deemed to be practicing dentistry within the meaning of this act who performs, or attempts, or advertises to perform, or causes to be performed by the patient or any other person, or instructs in the performance of, any dental operations or oral surgery or dental service of any kind gratuitously or for a salary, fee, money, or other remuneration paid, or to be paid, directly or indirectly, to himself or to any other person or agency; or who is a manager, proprietor, operator, or conductor of a place where dental operations, oral surgery, or dental services are performed; or who directly or indirectly, by any means or method, furnishes, supplies, constructs, reproduces or repairs any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth; or who places such appliance or structure in the human mouth or attempts to adjust the same; or who advertises to the public, by any method, to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth; or who diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats, or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of human teeth or jaws, or adjacent structure; or who extracts or attempts to extract human teeth, or corrects or attempts or professes to cor-

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rect malpositions of teeth or of the jaw; or who gives, or professes to give interpretations or readings of dental roentgenograms; or who administers an anesthetic of any nature in connection with a dental operation; or who uses the words 'dentist,' 'dental surgeon,' 'oral surgeon,' the letters 'D.D.S.,' 'D.M.D.,' or any other words, letters, title, or descriptive matter which in any way represent him as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury or physical condition of human teeth or jaws, or adjacent structures; or who states, or advertises or permits to be stated or advertised, by sign, card, circular, handbill, newspaper, radio, or otherwise, that he can perform or will attempt to perform dental operations or render a diagnosis in connection therewith or who engages in any of the practices included in the curricula of recognized dental colleges. Provided, however, that a dental laboratory or dental technician shall not be deemed to be practicing dentistry within the meaning of this act when engaged in the construction, making, alteration or repairing of bridges, crowns, dentures, or other prosthetic appliances *or surgical appliances* or orthodontic appliances if the casts or models or impressions upon which such work is constructed shall have been made by a regularly licensed and practicing dentist and all such crowns, bridges, dentures or prosthetic appliances *or surgical appliances* or orthodontic appliances shall be returned to the dentist upon whose order the work was constructed. *Any licensed dentist who employs or engages the services of any person, firm, or corporation to construct, reproduce, make, alter or repair bridges, crowns, dentures, or other prosthetic appliances or surgical appliances or orthodontic appliances, shall furnish such person, firm or corporation with a written work authorization on forms prescribed by the state board of dental examiners, which shall contain (a) the name and address of the person, firm or corporation to which the work authorization is directed, (b) the patient's name or identification number, but in case only a number is used the patient's name shall be written upon the duplicate copy of the work authorization retained by the dentist, (c) the date on which the work authorization was written, (d) a description of the work to be done, including diagrams, if necessary, (e) a specification of the type and quality of the materials to be used, (f) the signature of the dentist and the number of his license*

Excepted— dental laboratories and dental technicians.

Licensed dentist to furnish written work authorization.

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to practice dentistry. The person, firm or corporation receiving a work authorization from a licensed dentist shall retain the original work authorization and the dentist shall retain the duplicate copy thereof for inspection at any reasonable time by the state board of dental examiners or its authorized agents for a period of two (2) years from date of issuance.

"Nothing in this act contained applies to a legally qualified physician or surgeon or to a dental surgeon of the United States army, navy, public health service, or veterans' bureau, or to a legal practitioner of another state making a clinical demonstration before a dental society, convention or association of dentists, or to a legally qualified dental hygienist in the performance of his or her duties as provided by law.

Advertising or soliciting forbidden.

"No person, firm or corporation engaged in the business of constructing, altering or repairing bridges, crowns, dentures or other prosthetic appliances or surgical appliances or orthodontic appliances shall advertise such services, technique or materials to the general public by means of advertisements in public newspapers, magazines or by radio or television display advertisements or by any other means excepting advertisements in professional or trade papers, trade journals, trade directories, trade periodicals, trade magazines and listings in business and telephone directories limited to name, address and telephone number, which shall not occupy more than the number of lines necessary to disclose such information, nor shall any person, firm or corporation so engaged in any way directly solicit the patronage of the general public."

Amending clause.

Section 4. That section 66-911 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Duty of county attorney to enforce.

"66-911. (3115.11) **Duty of county attorney to enforce act — Attorney general's duty on appeal — Jurisdiction of justice courts** — *Injunction.* It shall be the duty of the county attorney of each county wherein an offense is alleged to have occurred, to attend to the prosecution of all complaints made under this act, both upon trial in the justice court where the complaint may be made, and also upon hearing in the district court, either upon such complaint, or upon information or indictment filed against

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any person under this act in the district court; provided, nothing in this act shall be construed to prevent the prosecution of any person for violation of this act upon the information of the county attorney directly. The attorney general of the state shall appear in the supreme court and attend to the prosecution of all criminal cases arising under this act, which may be appealed to said court, or taken to said court by any appellate process or procedure for review. Justice courts shall have original concurrent jurisdiction in accordance with law of all misdemeanors committed in violation of the provisions of this act. *If any person, firm or corporation engages in the practice of dentistry without possessing a valid license so to do or violates any of the provisions of this act, the attorney general, any county attorney or the state board of dental examiners may maintain an action in the name of and in behalf of the State of Montana to enjoin such person, firm or corporation from engaging in the practice of dentistry or otherwise violating the provisions of this act. The injunction shall not relieve from criminal prosecution but the remedy by injunction shall be in addition to the liability of the offender to criminal prosecution.''*

Duty of attorney general

Action in name of state for injunction.

Section 5. That section 66-917 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Amending clause.

''66-917. (3115.17) **Publishing professional cards not unprofessional conduct,** *when.* It shall not be considered unprofessional for a dentist to place in any newspaper or publication, *subject to the limitations stated hereafter,* a card bearing his name only, together with his or her degree, or the word 'dentist,' and giving office location, hours and telephone numbers and if he limits his practice to a specialty he may so announce it, or he may announce his absence from, or his return to, practice in the same manner. *Such professional card or announcement shall not be run in any newspaper or publication in excess of five (5) issues following the opening of his office by a newly licensed dentist, or following the change of location of a dentist's office, or after limiting his practice to a specialty, or after the absenting of a dentist from his practice, or following his return to the practice of dentistry. The publishing of professional cards or announcements in violation of these limitations shall be considered unprofessional.*

Limitations on professional advertising.

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Such card or announcement shall not be more than one column in width, or more than three inches in depth."

Severability clause.

Section 6. **Severability clause.** If any section, subdivision or sentence of this act shall be determined by a court of competent jurisdiction to be unconstitutional or inoperative, it shall not affect the remaining portions of this act.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 16, 1961.

CHAPTER 35

An Act to Permit Any School Board Within the State of Montana to Accept Such Authority as May be Granted to it by Any Tribal Council of an Indian Tribe Within the State of Montana to Enforce Montana School Laws Upon Any Indian Reservation Within the State of Montana Otherwise Subject to the Laws and Regulations of Said Tribal Council; Providing for the Enforcement of Compulsory School Attendance Laws When Permitted by Said Tribal Council; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Power of state officers to accept authority granted by tribal council regarding education of Indian children.

Section 1. It is the intent of the provisions of this act to permit any school board or any other duly qualified officer in the State of Montana to accept any authority which may be granted by the tribal council of any Indian tribe to any such officer or school board relating to matters of compulsory education of children or any other matter which would be governed by the laws of the State of Montana relating generally to the education of children residing within a school district of the State of Montana were it not for the authority of such tribal council or Indian tribe, within the territorial limits of the State of Montana, as such authority may have been reserved to said Indian tribe or tribal council under the laws of the United States of America and its treaties with such Indian tribe.

Section 2. Any school board of the State of Montana

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Power of school board to accept authority granted by tribal council.

is hereby authorized to accept any authority granted to it by the tribal council or other governing body of any Indian reservation in the State of Montana and to enforce all laws of the State of Montana which would be applicable in connection with the education of any Indian child residing within the State of Montana were it not for the fact of the existence of said Indian reservation and the powers reserved to the tribal council or other governing body of said Indian tribe under the laws or treaties of the United States of America and said Indian tribe.

Duty to enforce compulsory education.

Section 3. It shall be and hereby is made the duty of any officer otherwise charged with the enforcement of laws pertaining to the compulsory education of children residing within the State of Montana to enforce such duties as may be given by the Indian tribe and accepted by the school board of any school district within the State of Montana pursuant to the provisions of this act.

Duty to require school attendance.

Section 4. Unless otherwise prohibited by the laws or treaties affecting any Indian tribe, children of whom reside within any school district of the State of Montana, it shall be the duty of the school board of any school district within the State of Montana where said child resides to require the same attendance at school of Indian children as is required of any other child or children residing within the territorial limits of said school district.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 16, 1961.

CHAPTER 36

An Act to Amend Section 11-3215, Revised Codes of Montana, 1947, Relating to Nomination of Candidates at Primary Elections Held Under the Commission-Manager Form of Municipal Government, by Providing for the Dispensing of a Primary Election for the Nomination of Candidates for the Office of Commissioner in Such Municipalities When the Number of Candidates Legally Qualified for the Office of Commissioner at Such Primary Election Does Not Exceed Twice the Number of Vacancies in the Commission to be Filled;

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Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-3215, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Nomination of candidates—primary election.

"11-3215. (5414) **Nomination of candidates — Primary election.** (1) Candidates to be voted for at all general municipal elections at which commissioners are to be elected under the provisions of this act shall be nominated by a primary election, and no other names shall be placed upon the general ballot except those *nominated* in the manner hereinafter prescribed. The primary election for such nominations shall be held on the last Tuesday of August of the odd-numbered years.

Qualification—candidate for commissioner.

"(2) Any qualified elector of the municipality, who is the owner of real estate situated therein to the value of not less than one thousand dollars, desiring to become a candidate for commissioner, shall, at least ten days prior to said primary election, file with the clerk of the commission a statement of such candidacy in substantially the following form:

Nominating statement.

"State of Montana,
} ss.
"County of.....

"I, ..., being first duly sworn, say that I reside at.....street, (city, town) of....., county of....., State of Montana; that I am a qualified voter therein; that I am a candidate for nomination to the office of commissioner to be voted upon at the primary election to be held on the last Tuesday of August, 19....., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

"(Signed).....

"Subscribed and sworn to (or affirmed) before me by .....on this.....day of....., 19.....

"(Signed).....

And shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such can-

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didacy. Each petition shall be verified by one or more persons as to qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

"(3) Petition Accompanying Nominating Statement. Petition.

"The undersigned duly qualified electors of the (city, town) of....., and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination to the office of commissioner at the primary election to be held on the last Tuesday of August, 19..... We further state that we know him to be a qualified elector of said (city, town), and a man of good moral character, and qualified, in our judgment, for the duties of such office, and we individually certify that we have not signed similar petitions greater in number than the number of commissioners to be chosen at the next general municipal election.

"Names of Qualifying Electors Number Street

(Space for Signatures.)

"State of Montana, }
} ss.
"County of.....}

".....", being duly sworn, deposes and says, that he knows the qualifications and residence of each of the persons signing the appended petition, and that such signatures are genuine, and the signatures of the persons whose names they purport to be.

"(Signed).....

"Subscribed and sworn to before me this..... day of ....., 19.....

".....

"Notary Public

"This petition, if found insufficient, shall be returned to.....at No..... street, ..., Montana.

"(4) Immediately upon the expiration of the time of filing the statements and petition for candidates, the clerk of the commission shall cause to be published for three Clerk shall publish names.

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consecutive days in all the daily newspapers published in the municipality in proper form, the names of the persons that are to appear upon the primary ballots, and if there be no daily newspaper, then in two issues of any other newspaper that may be published in said municipality, and the said clerk shall thereupon cause the primary ballots to be printed and authenticated with a facsimile of his signature.

When primary election unnecessary.

"(5) In the event the number of legally qualified candidates for the office of commissioner at such primary election does not exceed twice the number of vacancies in the commission to be filled, no municipal primary election for the nomination of candidates for the office of commissioner shall be held in said city for said year and such legally qualified candidates shall be deemed duly nominated and shall be placed on the general ballot."

Repealing clause.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Approved February 21, 1961.

CHAPTER 37

An Act Amending Section 46-503, Revised Codes of Montana, 1947, Authorizing Live Inspection by the Livestock Commission at All Slaughter-houses or Livestock Markets and Providing for the Marking of Hides; Providing a Misdemeanor Penalty for Violation of the Act; Amending Section 46-508, Revised Codes of Montana, 1947, Authorizing Use of Certificates of Inspection Before Disposal of Hides; Containing a Repealing Clause and Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 46-503, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Sheriff to inspect and stamp hides of slaughtered cattle.

"46-503. (3298.18) **Inspection and marking of hides of slaughtered cattle — Records — Bill of sale to be presented, when — License or inspection not necessary, when.** All butchers and meat peddlers and all other persons shall have the hide in its entirety with tail and ears attached

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of each beef or veal inspected by a sheriff or his deputy in the county where the animal was slaughtered. The sheriff or his deputy shall mark said hide or hides in such manner as the livestock commission may from time to time by fixed rule require. It is hereby made the duty of the sheriff to make the inspection required by this act. Each of the four quarters so presented shall be stamped with an ink stamp, which stamp shall be provided by the county and the form of which shall be specified by the livestock commission, *provided, however, that such stamp need not be affixed if the meat has been inspected and stamped by an inspector of the livestock sanitary board.* Said sheriff, or deputy, shall keep a record and issue a certificate of inspection, on a form provided by the county, which form shall be specified by the livestock commission, giving the butcher's or peddler's or person's name, the place of business, the serial number of the inspection of the hide, the brand or brands on the hide, the date of inspection, and the place where such inspection was made. The officer making such inspection shall forward a copy of all inspection certificates to the secretary of the livestock commission at Helena, and to the county clerk of the county in which said inspection was made, on or before the first day of each month, and such inspection certificate shall be placed on file in the offices aforementioned.

Except when inspected by livestock sanitary board.

Record and certificate of inspection.

"When ownership of the carcass and hide presented is claimed on a bill of sale, the officer making the inspection shall demand and receive the original bill of sale, which bill of sale shall be attached to the inspector's certificate sent to the county clerk and recorder. When such bills of sale cover cattle not included in the inspection, the inspector shall issue to the owner of the bill of sale a receipt for such bill of sale. Said receipt shall describe the balance of the cattle covered by the original bill of sale.

Bill of sale to be attached to certificate.

"In lieu of the inspection provided for above, the livestock commission may in its discretion designate a person to make a live inspection of all meat cattle at any licensed slaughter-house and to issue a certificate of such inspection. The person making the inspection shall make the inspection and mark the hide and identify the meat in such manner as the livestock commission may prescribe by regulation. The marking of the hide shall be deemed

Live inspection.

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sufficient compliance with the provisions of section 46-508, Revised Codes of Montana, 1947.

"In case of an emergency or custom slaughter involving not more than two cattle a licensed slaughter-house may slaughter without a live inspection provided that the hide or hides from such cattle be held separate from other hides until inspected and cleared by the inspector in charge.

Amending clause.

Section 2. That section 46-508, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Person slaughtering cattle must exhibit hides for inspection.

"46-508. (3298.19) *Hide certificates* — **Inspection of hides before disposal — Person slaughtering cattle must exhibit hides.** Every person or persons, firm, corporation or association, slaughtering cattle for their own use, must before selling, destroying or otherwise disposing of the hide or hides from such cattle, have the same inspected by an officer authorized to make such inspection and secure a certificate of inspection as hereinbefore provided for. It shall be unlawful for any person or persons, firm, corporation, or association to sell, offer for sale, destroy or otherwise dispose of any hide or hides from slaughtered cattle which have not been inspected and identified by an authorized inspector. And it shall be the duty of any person or persons, firm, corporation, or association slaughtering cattle, for his own use or otherwise, upon demand of an authorized inspector, to exhibit the hide or hides of such animal or animals for inspection or *certificate* issued by a hide buyer, or some evidence of inspection by an authorized inspector."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 21, 1961.

CHAPTER 38

An Act to Define the Time Allowed for Filing Petitions for Nominations as Being Before the Hour of Five (5) o'Clock P.M. on Any Day Not Less Than Forty (40)

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Days Before the Date of the Primary Nominating Election by Amending Section 23-912 of Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 23-912, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"23-912. (644) **Time for filing petitions for nominations.** All petitions for nomination under this act for offices to be filled by the state at large or by any district consisting of more than one (1) county, and nominating petitions for judges of district courts in districts consisting of a single county, shall be filed in the office of the secretary of state not *later than five (5) o'clock P.M. on any day* not less than forty (40) days before the date of the primary nominating election; and for other offices to be voted for in only one (1) county, or district or city, every such petition shall be filed with *the* county clerk or city clerk as the case may be, not *later than five (5) o'clock P.M. on any day* not less than forty (40) days before the date of the primary nominating election." Nominating petitions must be filed 40 days before primary.

Approved February 21, 1961.

CHAPTER 39

An Act Providing for a License for Physical Therapist, Defining Physical Therapy and Other Terms; Providing for Qualifications and Examinations; Providing for Annual Renewal of Licenses and Temporary Licenses; Providing for a Short Title; Directing That Invalidity of Part of This Act Shall Not Affect or Impair the Remainder; Providing for Reciprocity Between Montana and Other States or Territories; Containing a Repealing Clause, and Penalties for the Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** In this act, unless the context otherwise required:

(1) "Physical Therapy" means the treatment of any bodily or mental condition of any person by the use of the physical, chemical and other properties of heat, light, "Physical therapy."

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water, electricity, massage, and therapeutic exercise including physical rehabilitation procedures. The use of roentgen rays and radium for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term "physical therapy" as used in the act.

"Physical therapist."

(2) The term "Physical Therapist" means a person who practices physical therapy as defined in this act.

"Board."

(3) "Board" means the board of medical examiners.

(4) Words importing the masculine gender may be applied to females.

Requirements for license.

Section 2. To be eligible for a license from the board as a physical therapist an applicant must:

(1) Be at least twenty-one years old;

(2) Be of good moral character;

(3) Have been graduated from a school of physical therapy approved by the council of medical education and hospitals of the American Medical Association;

(4) Either (a) pass to the satisfaction of the board an examination conducted by it to determine his fitness for practice as a physical therapist; or, (b) be entitled to a license without examination as provided by section 5 or 6 of this act.

Application for license.

Section 3. Unless entitled to a license under section 4 or 5 of this act, a person who desires to be licensed as a physical therapist shall apply to the board, in writing, on a blank furnished by the board. He shall embody in that application evidence under oath, satisfactory to the board, of his possessing the qualifications preliminary to examination required by the preceding section. He shall pay to the secretary of the board of medical examiners at the time of filing his application a fee of twenty-five dollars ($25.00). This fee will become part of the board of medical examiners' fund and shall not be used or expended for any purpose other than as provided for in section 66-1009, Revised Codes of Montana, 1947. Anyone failing to pass the required examination shall be entitled to a second examination within six months without additional fee.

Fee.

Board shall license qualified persons.

Section 4. The board shall license as a physical therapist any qualified person who

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(1) applies for such license on or before September 30, 1961; and who

(2) at the time of the passage of this act is a member of or is eligible for membership in the American Physical Therapy Association and/or the American Registry of Physical Therapists; and

(3) is practicing physical therapy in the State of Montana and was so practicing at the time of the passage of this act.

Fee.

At time of making such application such applicant shall pay the board a fee of five dollars ($5.00).

Reciprocal license fee.

Section 5. The board may, in its discretion register as a physical therapist, without examination, on the payment of the required twenty-five dollars ($25.00) fee, an applicant for license who is a physical therapist licensed under the laws of another state or territory, if the requirements for a license for physical therapists in the state or territory in which the applicant was licensed were at the date of his license substantially equal to the requirements in force in this state.

Examinations.

Section 6. The board shall examine applicants for a license as physical therapists at such times and places as it may determine. It shall appoint two registered physical therapists to aid it in such examinations. The examinations shall embrace such subjects as the board deems necessary to determine the applicant's fitness.

Board to issue certificates.

Section 7. The board shall license as a physical therapist each applicant who proves to the satisfaction of the board his fitness for a license under the terms of this act. It shall issue to each person licensed a license certificate, which shall be prima facie evidence of the right of the person to whom it is issued to represent himself as a licensed physical therapist, subject to the conditions and limitations of the act.

Extension and fee.

Section 8. Every licensed physical therapist shall, during January, 1962, and during every January thereafter, apply to the board for an extension of his license and pay a fee of two dollars ($2.00). A license that is not so extended, in the first instance before April 1, 1962, and thereafter before April, every year, shall automatically lapse. The board may in its discretion revive and extend

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a lapsed license on the payment of all past unpaid extension fees.

Board may refuse license for cause.

Section 9. The board, after due notice and hearing, may refuse to license any applicant, and may refuse to renew the license of any licensed person:

(1) Who is habitually intoxicated or who is addicted to the use of narcotic drugs;

(2) Who has been convicted of violating any state or federal narcotic law;

(3) Who is, in the judgment of the board, guilty of immoral or unprofessional conduct;

(4) Who has been convicted of any crime involving moral turpitude;

(5) Who is guilty, in the judgment of the board, of gross negligence in his practice as a physical therapist;

(6) Who has obtained or attempted to obtain registration by fraud or material misrepresentation;

(7) Who has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane;

(8) Who has treated or undertaken to treat ailments of human beings otherwise than by physical therapy, or who has undertaken to practice physical therapy independent of prescription from a person who holds an unlimited license to practice medicine and surgery in the State of Montana and other states and territories.

Temporary license—fee.

Section 10. **Temporary licenses.** On payment to the board of a fee of ten dollars ($10.00), and the submission of a written application on forms provided by it, the board shall issue without examination a temporary license to practice physical therapy in this state for a period not to exceed one year to any person who meets the qualifications set forth in section 2 upon submission by such person of evidence satisfactory to the board that he is in this state on a temporary basis to assist in a case of medical emergency or to engage in a special physical therapy project. Upon the submission of a written application on forms provided by it, the board shall also issue a temporary license to a person who has applied for a license under the

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provisions of this act and who is, in the judgment of the board, eligible to take the examination provided for in section 2. Such temporary license shall be available to an applicant only with respect to his first application for a license under section 5 and such license shall expire when the board makes a final determination with respect to said application.

Practice without license—misdemeanor.

Section 11. A person who is not licensed under this act as a physical therapist, or whose license has been suspended or revoked, or whose license has lapsed and has not been revived, who uses in connection with his name the words or letters "L.P.T.," "Licensed Physical Therapist," or any other letters, words or insignia indicating or implying that he is a licensed physical therapist, or who in any way, orally, or in writing, or in print, or by sign, directly or by implication, represents himself as a physical therapist shall be guilty of a misdemeanor.

False oath—misdemeanor.

Section 12. A person who makes a wilfully false oath or affirmation in any case in which an oath or affirmation is required by this act, or who obtains or attempts to obtain a license by any fraudulent representation shall be guilty of a misdemeanor.

Construction of act.

Section 13. Nothing in this act shall be construed as authorizing a physical therapist, whether licensed or not, to practice medicine, osteopathy or chiropractic; nor shall this act be construed to limit or regulate any other business or profession or any services rendered or performed in connection therewith, including osteopathy, chiropractic, chiropractic physio therapy, massage therapist, masseurs, or Swedish masseurs.

Board authorized to adopt rules.

Section 14. The board is authorized to adopt reasonable rules to carry this act into effect and may amend and revoke such rules at its discretion. The board shall keep a record of its proceedings under this act and a register of all persons licensed under it. The register shall show the name of every living licensed physical therapist, his last known place of business and last known place of residence, and the date and number of his license and certificate as a licensed physical therapist. The board shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail a copy of that list to every

Register to be kept.

Board to compile annual list.

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superintendent of every known hospital and every person licensed to practice medicine and surgery in the state. Any interested person in the state is entitled to obtain a copy of that list on application to the board, which amount shall not exceed the cost of the list so furnished.

Board to investigate violations.

Section 15. The board shall investigate every supposed violation of this act coming to its notice and shall report to the proper authority all cases that in the judgment of the board warrant prosecution.

Penalty on conviction.

Section 16. Any person who knowingly violates any provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not less than fifty dollars ($50.00) or more than five hundred dollars ($500.00) or by imprisonment in the county jail for a term of not less than thirty (30) days or more than six (6) months, or by both such fines and imprisonment.

Severability clause.

Section 17. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Repealing clause.

Section 18. All acts and parts of acts in conflict herewith are hereby repealed.

Title of act.

Section 19. This act may be cited as the "Physical Therapists Practice Act."

Approved February 23, 1961.

CHAPTER 40

An Act Relating to Restrictions on Taking Fish and Game; Amending Section 26-307, Revised Codes of Montana, 1947, to Provide That Brown and Black Bear, in Addition to Grizzly Bear, May be Killed as Trophy Animals, so That Only the Head or Hide of Such Bear Need be Removed and Taken.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-307 of the Revised Codes of Montana, 1947, is amended to read as follows:

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"26-307. (3696) **Waste of fish or game — Hunting or fishing during closed season — Killing more than one game animal — Exceptions** *for bear.*

Misdemeanor to waste or abandon game.

"(1) It shall be unlawful and a misdemeanor for any person responsible for the death of any game animal of this state, excepting grizzly, *black and brown* bear, to detach or remove from the carcass only the head, hide, antlers, tusks or teeth, or any or all of aforesaid parts, or to waste any part of any game animal, game bird, or game fish suitable for food, or to abandon the carcass of any game animal in the field, except grizzly, *black and brown* bear, *which need have removed and taken from the carcass only the head or the hide of such bear.*

Unlawful killing of game animals.

"(2) It shall be unlawful and a misdemeanor for any person to kill more than one game animal of any one species, in any one license year, unless the killing of more than one game animal of such species has been authorized by regulations of the fish and game commission.

Unlawful killing during closed season.

"(3) It shall be unlawful and a misdemeanor for any person during the closed season on any species of game animal, game bird or fish to take, hunt, shoot, kill or capture any such game animal or such game bird or to fish for or catch any such fish."

Approved February 23, 1961.

CHAPTER 41

An Act to Amend Section 75-5003, Revised Codes of Montana, 1947, Relating to Special Education for Mentally Retarded and Physically Handicapped Children; Providing for Local Provision of Special Classes; Providing for State Reimbursement; Providing for Tuition Payments; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-5003, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"75-5003. **Local boards of trustees — Powers — Determination of children requiring special education and the**

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Duty of board to maintain special classes for retarded or handicapped children

type of education responsibility of state superintendent — Reimbursement by state — Computation. The board of trustees in each school district, *when it appears that there are not less than ten (10) educable, mentally retarded or physically handicapped children in the district, must* maintain special classes for educable mentally retarded children or for physically handicapped children, or may arrange to use the services of such approved *mentally retarded or physically handicapped children's* classes as may exist within the state, or may provide transportation services from home to school and return for all handicapped children enrolled in a state approved special education program of such ages as it deems wise; provided, that the local board has the right to exclude persons of low intelligence or severe delinquent behavior. The determination of the children requiring special education and the type of special education needed by these handicapped children shall not be the responsibility of local boards of trustees but shall be the responsibility of the state superintendent of public instruction in cooperation with appropriate medical, psychiatric and psychological advice listed above. Two (2) or more districts may combine to provide such educational facilities.

Determination of special education duty of state superintendent of public instruction.

Computation of reimbursement by state.

"Reimbursements on the part of the state for such programs shall be computed on the basis of counting each such mentally retarded child in such special classes as three (3) in average number belonging, and each physically handicapped child according to a schedule to be prepared by the state superintendent of public instruction, but in no case shall it be over three (3) average number belonging for each such child, prorated according to time and number in these special classes, or in home tutoring. Transportation reimbursements shall be made on a schedule arrived at by the state superintendent of public instruction, and such expenditures shall be added to the transportation budget of the district. The state shall reimburse two-thirds of such approved transportation *and the county shall reimburse the remainder of such approved transportation according to said schedule.*

State and county contributions for transportation.

Tuition paid by county of residence— elementary school.

Any child who is mentally retarded, or physically handicapped, or both, who is enrolled in a state-approved elementary school special education program which is maintained by a district other than the district in which such

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child resides, shall be included in the computation of average number belonging to the district maintaining the special education program, according to the provisions herein. The district in which such child resides shall pay to the district where such child attends an amount of tuition based on the tuition rates established in section 75-1630, and such payment shall be made in the manner prescribed by section 75-1630.

High school.

Any such child who is enrolled in a state-approved high school special education program which is maintained by a high school located in a county other than the county in which such child resides, shall be included in the computation of the average number belonging to the high school maintaining the special education program, according to the provisions herein. The county in which such child resides shall pay to the high school where such child attends an amount of tuition based on the tuition rates established in section 75-4230, and such payment shall be made in the manner prescribed by section 75-4230.

No tuition to state institution.

When children are sent to an institution supported *solely* by funds of the State of Montana the home district *or county* will not be required to *pay tuition* for such child."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1961.

CHAPTER 42

An Act to Amend Section 84-1812 of the Revised Codes of Montana, 1947, as Amended by Chapter 205, Laws of Montana, 1957, Relating to the Distribution of Proceeds of Tax-funds and Providing for an Increase in the Annual Expenditure for Dissemination of Public Information From Eighty-five Thousand Dollars ($85,000.00) to One Hundred and Twenty-six Thousand Five Hundred Dollars ($126,500.00); Providing for the Use of the State Highway Funds on the Federal Highway System; Prescribing the Duties of the State Highway Commission in Expending Such Money; and Providing Authorization to the State Highway Commission to

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Enter Into Cooperative Agreements With the National Park Service and the Bureau of Public Roads; to Repeal Section 84-1816 of the Revised Codes of Montana, 1947, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-1812 of the Revised Codes of Montana, 1947, as amended by chapter 205, Laws of Montana, 1957, be, and the same is hereby amended to read as follows:

Distribution of proceeds of gasoline taxes.

"84-1812. (2381.22) **Distribution** *and use* **of proceeds of tax-funds.** All money received by the state treasurer in payment of license taxes under the provisions of this act shall be deposited and credited *as follows:* seventy-five per centum (75%) *of the total amount collected* to the state highway fund, and twenty-five per centum (25%) *of the total amount collected* to a special fund designated as '*the* gasoline license drawback fund.'

Any deficit in gasoline license drawback fund to be paid from state highway fund.

"*The amount* deposited in the gasoline license tax drawback fund shall be used for the purpose of making refunds and paying drawbacks as authorized by law to be made or paid to purchasers of gasoline used in this state for other purposes than the propulsion of motor vehicles over the public highways and streets of this state. *At* the close of each fiscal year, the state treasurer shall transfer all money remaining unexpended in said gasoline license tax drawback fund to the state highway fund. *In the event, however,* the money in said gasoline license tax drawback fund is insufficient in amount *at any time to* pay duly authorized and approved refunds or drawbacks, the state treasurer *notwithstanding the proportions hereinbefore set out* shall transfer from the state highway fund a sum or sums sufficient in amount to meet and pay all such outstanding authorized and duly approved refunds or drawbacks.

Use of money transferred to state highway fund.

"All money transferred to *the* state highway fund shall be used and expended by the state highway commission on the federal highway system of highways in this state selected and designated under the provisions of the federal aid act, approved July 11, 1916, and the federal highway act, approved November 9, 1921, and all amendments thereto, and *on* highways leading from each county

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seat in the state to said federal highway system of federal aid roads where such county seat is not on said system, and *on* such other roads as have been or may be authorized by the laws of Montana, for the collection and enforcement of this act, *pursuant to the provisions of article XII, section 1 (b) of the constitution of the State of Montana;* provided, that the total cost to the state *for* administration, dissemination of public information, and engineering on the federal aid work contemplated by this act shall not exceed for any fiscal year eight per centum (8%) of the total of state, federal aid and other available funds expended under the supervision of the state highway commission, *which* said eight per centum (8%) shall be known as the administrative fund. Provided further that the expenditure for dissemination of public information *out of said administrative fund* shall not exceed an annual expenditure of *One Hundred and Twenty-Six Thousand Five Hundred Dollars ($126,500.00). It shall be the duty of the state highway commission, in expending such money, to carry forward construction from year to year, using the money expended through the matching up of federal aid allotments to Montana upon the said federal highway system of highways in the various parts of the state in accordance with the provisions of section 84-1817; provided that nothing in this act shall be construed to conflict with said federal aid highway acts and the rules by which they are administered. The state highway commission is authorized to enter into co-operative agreements with the national park service and the bureau of public roads for the purpose of maintaining national park approach roads in Montana."*

Limitation on costs.

Limitation on cost of public information.

Duty of state highway commission to match federal aid.

Authority to enter into co-operative agreements.

Section 2. That section 84-1816 of the Revised Codes of Montana, 1947, be, and the same is hereby repealed.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1961.

CHAPTER 43

An Act to Amend Section 41-701 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 32 of the Session Laws of 1955, and to Amend Section 41-

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703 of the Revised Codes of Montana, 1947, Relating to Requiring All Contracts for State, County, Municipal, School Construction, Heavy Highway or Municipal Construction, or Repair Work and Maintenance to Contain Provisions Requiring Preference to Bona Fide Residents of Montana and Defining 'The Standard Prevailing Rate of Wages,' 'Heavy Highway or Municipal Construction' in the County and Area Where the Work is Being Performed and Providing Penalties for the Violation of This Act, and Repealing All Acts and Parts of Acts in Conflict Herewith, and Containing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 41-701, Revised Codes of Montana, 1947, as amended by section 1, chapter 32 of the Session Laws of 1955, be amended to read as follows:

Public works contracts to provide for preference of Montana labor.

"41-701. (3043.1) **Preference of Montana labor in public works — Wage scale — Not to conflict with federal statutes.** In all contracts hereafter let for state, county, municipal, school construction, *heavy highway or municipal construction,* repair and maintenance work under any of the laws of this state there shall be inserted in each of said contracts a provision by which the contractor must give preference to the employment of bona fide Montana residents in the performance of said work, and that the said contractor must further pay the standard prevailing rate of wages in effect as paid in the county in which the work is being performed. 'Standard prevailing rate of wages,' as set forth herein, means those wages which are paid in the county by other contractors for the same type of work performed in such county under this act. *All contracts for work on heavy highway or municipal construction, other than building construction, shall contain the prevailing rate of wages as set by collective bargaining in effect in the areas covered by heavy and highway labor agreements. Heavy highway or municipal construction as intended herein is defined to be the construction substantially in its entirety of any fixed structure or other improvement, or any modification or alteration thereof, or addition thereto, or repair thereon, including not only the construction thereof but also the performance of any operation incident to such construc-*

Wage scale.

Heavy highway or municipal construction defined.

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tion or to any contract therefor, excepting always, however, that work which is commonly called building construction. No contract shall be let to any person, firm, association or corporation refusing to execute an agreement with the above-mentioned provisions in it; provided that, in contracts involving the expenditure of federal aid funds this act shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged soldiers, sailors and marines, and prohibiting as unlawful any other preference or discrimination among citizens of the United States."

Contracts involving federal funds.

Section 2. That section 41-703, Revised Codes of Montana, 1947, be and the same is amended to read as follows:

Amending clause.

"41-703. (3043.3) **Penalty for violation of act.** If any person, firm or corporation shall fail to comply with the provisions of this act, the state, county, municipal or school officers who have executed the contract shall retain *one thousand dollars ($1,000.00)* of the contract price as liquidated damages for the violation of the terms of the contract and said money shall be credited to the proper funds of the state, county, municipal or school districts *and any firm or corporation violating the provisions of this act shall have his or its license suspended by the state board of equalization in the manner prescribed by section 84-3510, Revised Codes of Montana, 1947, for a period of one year after the date of final judgment of said violation by any district court or the supreme court. Whenever any action, shall have been instituted in any district court in this state against any person, firm or corporation for the violation of this act, the court in which said action is pending, shall be and it is hereby authorized to issue an injunction to restrain any such person, firm or corporation from proceeding with his or its contract with the state, county, municipal or school districts, pending the final determination of said action so instituted.* In all contracts entered into under the provisions of this act at least *one thousand dollars ($1,000.00)* of the contract price shall be withheld at all times until the termination of the contract."

Penalty for violation.

Suspension of license.

Injunction.

Withheld contract payment.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

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Effective immediately.

Section 4. This act shall be in full force and effect upon its passage and approval.

Approved February 23, 1961.

CHAPTER 44

An Act Providing for Hide Certificates, Recording of Certificates and Identification of Hides; Providing Definitions; Amending Section 46-1102, Revised Codes of Montana, 1947, Providing a Misdemeanor Penalty for Falsifying a Hide Certificate or Failing to Affix the Required Identification Tag; Amending Section 46-1106, Revised Codes of Montana, 1947, by Excluding Licensed Slaughterhouses From Hide Licensing Requirements; Amending Section 46-1107, Revised Codes of Montana, 1947, by Providing a License Fee of Five Dollars ($5.00) for a Hide Dealer or Buyer, to be Paid to the Livestock Commission Fund; Providing a Misdemeanor Penalty for Acting as a Hide Dealer or Buyer Without a License; Providing for Revocation of Such License Upon Conviction; Repealing Sections 46-1101, 46-1108, 46-1109, 46-1110, 46-1111, 46-1112 and 46-1113, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions:**

"Animal hide." (a) *"Animal hide" means the hide of any cattle, horse, mare, colt, mule, jack or jenny.*

"Commission." (b) *"Commission" means the livestock commission of the State of Montana.*

"Seller." (c) *"Seller" means any person selling or delivering animal hides for or without a pecuniary consideration.*

"Inspector." (d) *"Inspector" means any sheriff or deputy sheriff, any state stock inspector or deputy state stock inspector appointed by the livestock commission.*

"Hide certificate." (e) *"Hide Certificate" means a certificate showing a transfer of ownership of animal hides.*

Section 2. *Hide Certificate—Identification. A seller of*

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Seller must obtain hide certificate.

any animal hide shall obtain a hide certificate from the person receiving the hide. The commission shall by regulation prescribe the form of the certificate which shall include the marks and brands on each hide. The party receiving the hide must designate where it will be kept for thirty days following delivery. The certificate must be signed by the seller or his agent and the person receiving the hide.

Commission to furnish certificates to sheriffs.

Hide certificates, tags and glue shall be furnished to the sheriff of each county by the commission at cost and by the sheriff to any person requiring such certificates, tags and glue. Only those certificates, tags and glue distributed by the commission may lawfully be used under this act. The original certificate shall be filed with the sheriff of the county of the seller's residence. One copy shall be sent by the party receiving the hide to the commission, one retained by the seller and one by the hide buyer. Inspection. *Upon reasonable notice, any sheriff or deputy sheriff, state stock inspector or deputy state stock inspector can inspect the hide certificate copy of the seller or buyer.* Tags. *The commission shall prescribe an identification tag to be affixed to each hide by the person receiving the hide when it is delivered. Hide dealers and buyers must mail the original hide certificate to the sheriff of each county in which hides are purchased within five (5) days after purchase.*

Amending clause.

Section 3. That section 46-1102, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Penalty for falsifying hide certificate.

"46-1102 (3350.2) Any person, firm, association, or corporation either selling or disposing of or purchasing hides in any manner, who shall wilfully or intentionally falsify *a hide certificate* covering such hides, shall be deemed guilty of a misdemeanor.

Penalty for not affixing tag.

Any person who shall have received any hide as provided in this act without affixing the required identification tag shall be deemed guilty of a misdemeanor."

Amending clause.

Section 4. That section 46-1106, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Hide buyer defined.

"46-1106. (3350.7) **Hide buyer defined.** For the pur-

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pose of this act, every person, firm, corporation or association engaged in the business of buying or selling the hide or hides of any cattle or of any horse, mare, colt, mule, jack, or jenny, shall be designated a hide dealer or buyer. *Provided, however, that licensed slaughterhouses shall not be deemed hide dealers or buyers.''*

Section 5. That section 46-1107, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

License and fee.

''46-1107. (3350.8) **Hide dealer or buyers license fee — Disposal of proceeds.** Every hide dealer or buyer *shall pay to the livestock commission a license fee of five dollars ($5.00) for each established place of business at which such hide dealer or buyer purchases or deals in hides, before engaging in, or conducting any business as such in the State of Montana,* which license shall continue in force and effect for that calendar year. The moneys collected from such licenses shall be placed in the *livestock commission fund. The license must be renewed January 1 of each year commencing January 1, 1961.''*

Livestock commission fund.

Misdemeanor.

Section 6. *''Acting without a license—Revocation. Any person acting as a hide dealer or buyer without a license as required by this act is guilty of a misdemeanor.*

Revocation.

Upon receipt of a certified copy of the judgment of conviction of any hide dealer or buyer for any violation of this act, the livestock commission may revoke the license of such person for one year commencing on the date of the licensee's conviction.''

Repealing clause.

Section 7. Sections 46-1101, 46-1108, 46-1109, 46-1110, 46-1111, 46-1112 and 46-1113, Revised Codes of Montana, 1947, and all other acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1961.

CHAPTER 45

An Act to Amend Section 3-2407 of the Revised Codes of Montana, 1947, Relating to the Method in Which the Babcock Test Shall be Conducted on Milk or Cream

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Sold for Manufacture, Sale or Shipment; to Provide the Commissioner of Agriculture With the Authority to Promulgate Necessary Rules and Regulations for Weighing and Sampling Milk From Farm Bulk Milk Tanks and Use of Composite Sample; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 3-2407 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Samples of milk and cream must be taken.

"3-2407. (2620.7) All persons purchasing milk or cream, for manufacture, sale or shipment, and paying for the same on the basis of the butter fat contained therein as determined by the Babcock test, shall immediately upon receiving such milk or cream, take a representative sample thereof. Such samples shall not be less than two (2) ounces avoirdupois in weight and shall be immediately transferred to a clean and dry sample jar and properly sealed to prevent evaporation or the escape of any of the contents thereof. All samples taken shall be plainly marked or labeled and such mark or label shall be entered on the records of the purchaser to correspond with the name of the person from whom the purchase was made and such record shall also show the weight of the milk or cream. Such samples shall then be protected from the extremes of heat and cold until five (5) o'clock P.M. of the following day, unless the next day be Sunday or any other holiday in which event the samples shall be held until five (5) o'clock P.M. of the next day following such holiday. During the period that samples are so held, after the making of the test by the person taking same, they shall be opened only in the presence of the commissioner of agriculture, or his authorized agent. *Nothing in this section shall prohibit the weighing and sampling of milk from farm bulk milk tanks, or the use of composite samples of milk according to rules and regulations adopted by the commissioner of agriculture, in the best interests of milk producers, consumers and processors and for the protection of their mutual interests.*"

Record of purchase.

Retention of samples.

Exceptions.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1961.

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CHAPTER 46

An Act Amending Section 16-4527, of the Revised Codes of Montana, 1947, as Enacted by Section 27, Chapter 242, Laws 1957, as Amended by Section 3, Chapter 258, Laws 1959, Pertaining to County Water District Taxes, by Deleting the Word 'Minimum' Whenever it Appears in Said Section, by Permitting the Board of Directors of a County Water District to Include in its Estimate of the Amount of Money Required and the Board of Commissioners of the County, or City and County, in Levying the Taxes Provided for in Said Section to Include in Said Estimate and Said Taxes an Amount Sufficient to Establish Reasonable Reserve Funds for the Payment of the Principal of or Interest on Any Bonded Debt as it Becomes Due; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing a Saving Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-4527, Revised Codes of Montana, 1947, as enacted by section 27, chapter 242, laws 1957, as amended by section 3, chapter 258, laws 1959, be, and the same is hereby amended to read as follows:

Board of county water district to furnish written estimate of moneys required to pay district debts and establish reserve fund.

"16-4527. **Commissioners to levy water taxes.** If, from any cause, the revenues of the district shall be inadequate to pay the interest or principal of any bonded debt as it becomes due or any other expenses or claims against the district, then the board of directors must, at least fifteen (15) days before the first day of the month in which the board of commissioners of the county, or city and county, in which such water district is located, is required by law to levy the amount of taxes required for county or city and county purposes, furnish to the board of commissioners and to the auditor, respectively, an estimate in writing of the amount of money required by the district for the payment of the principal *of* or interest on any bonded debt as it becomes due, *and of the amount of money required to establish reasonable reserve funds for either of said purposes,* together with a description of the lands benefited thereby, as stated by the board of directors in the resolution declaring the necessity to incur such bonded indebtedness, and also of the amount of money required by the district for any other purpose in this section set forth, and the board of commissioners

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Board of commissioners must levy sufficient taxes.

of such county or city and county must annually, at the time and in the manner of levying other county or city and county taxes and until any such bonded debt is fully paid, levy upon the lands so benefited and cause to be collected, a tax sufficient for the payment thereof to be known as the '..... county water district bond tax'; and until all other expenses or claims are fully paid, levy upon all of the lands of the district and cause to be collected a tax sufficient for the payment thereof to be known as the '.....county water district water tax.'

Manner of assessment.

"When the amount of money required for any purpose in this section enumerated has been determined, each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its area bears to the total area of all of the lands to be assessed; or said assessment may, at the option of the board of county commissioners, be based upon the taxable valuation, as stated in the last completed county assesment roll, of the lots or parcels of land, exclusive of improvements thereon, within said district, in which case, each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its taxable valuation bears to the total taxable valuation of all of the lands to be assessed.

Procedure for giving notice.

"When the written estimate of the amount of money required has been delivered to the board of commissioners, said board shall give notice of its intention to levy and collect a tax sufficient for the payment thereof. Such notice shall be given:

"(1) By posting notice thereof in five (5) public places within the boundaries of the lands upon which the tax is to be levied, and

"(2) By publishing a copy of the notice for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper published in the county wherein the district is located.

"(3) By forwarding registered mail, at least ten (10) days prior to the hearing provided for in paragraph (d) of this section, a copy of the notice addressed to the owners of taxable real property within the district as shown by the current assessment book on file in the office of the

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assessor of the county or counties the boundaries of which include taxable real property of the district.

Declared reasonable.

"The legislative assembly hereby finds, determines and declares that the giving of notice in accordance with paragraphs (1), (2) and (3) of this section is reasonably calculated to inform the owners of taxable real property located within the boundaries of the district of the hearing provided for in paragraph (d) of this section, and that the giving of any further notice is impracticable and is unnecessary to the assurance of due process of law to such property owners.

Notice shall provide for hearing of protests.

"Such notice shall state:

"(a) The amount of money required;

"(b) The method of assessment which the board of commissioners intends to employ;

"(c) The boundaries or description of the lands to be assessed; and

"(d) The time when and the place where, the board of commissioners will hear and pass upon all protests that may be made against the levy of the tax or any matter pertaining thereto, which said hearing shall be had no less than fifteen (15) days after the last publication of the notice.

"At the time and place designated for said hearing any owner of property situated within the area to be assessed may appear and protest the levy of the tax or any matter pertaining thereto. All protests must be heard, considered and ruled upon by the board of commissioners. The board of commissioners may adjourn said hearing from time to time.

Taxpayer may bring action to recover.

"Where such tax is, for any reason, deemed unlawful by the person whose property is taxed, whether he has protested the same at the hearing above provided or not, he may pay the tax or the installments thereof under protest in the manner provided by section 84-4502, Revised Codes of Montana, 1947, and thereupon, and within the time prescribed and in the manner provided by said section 84-4502, may commence an action to recover such tax, or installments, and in such action contest and litigate the payment of such tax on the same grounds and

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for the same reasons that he has stated in his written protest, and for no other reasons and on no other grounds; provided, that all of the provisions of said section 84-4502 for the retention or refunding of taxes paid under protest shall apply to taxes paid under protest under this section.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Severability clause.

Section 3. If any provision contained in this act shall for any reason be held invalid, such decision shall not invalidate the remaining portions of this law.

Effective immediately.

Section 4. This act shall be in full force and effect from and after the date of passage and approval.

Approved February 23, 1961.

CHAPTER 47

An Act to Amend Section 60-145, Revised Codes of Montana, 1947, Enacted as Section 22, Chapter 238, Laws of Montana, 1953; as Amended by Section 1, Chapter 234, Laws of Montana, 1955; as Amended by Section 1, Chapter 198, Laws of Montana, 1957; Relating to the Oil and Gas Conservation Commission, Privilege and License Tax, Quarterly Statements, Penalties — Drilling Permit Fees—Oil and Gas Conservation Fund; Providing for an Assessment on All Crude Petroleum and Natural Gas Produced, Saved and Marketed or Stored Within the State of Montana, or Exported From the State of Montana, for the Purpose of Providing Funds for Defraying the Expenses of Operation of the Oil and Gas Conservation Act and the Expenses of the Oil and Gas Conservation Commission; Providing That the Oil and Gas Conservation Commission Shall Fix the Amount of Such Assessments in the First Instance, and May, From Time to Time, Reduce or Increase the Amount of Said Assessments as the Expenses Against the Oil and Gas Conservation Fund May Require, and Providing Limitations Upon the Amount of Said Assessments; Providing That the Same Factor Shall be Used in Fixing the Amounts of Assessments; Providing That Payment of Such Assessments Shall be Made by the Producers of

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Said Crude Petroleum and Natural Gas and Providing for the Correction of the Reference to the Section of the Revised Codes of Montana, 1947, as Amended, Which Provides for the Reimbursement to Said Producers for Such Payments Made on Crude Petroleum and Natural Gas Produced for Others; Defining the Word 'Lease' Used Therein; Declaring Leases Owned or Operated by One Lessee Which Are Affected by One Particular Unit Agreement Shall be Considered as One Lease Relative to Payments to be Made Under This Section; Providing That the Commission May Appoint a Secretary and Employ Such Other Experts, Assistants, Clerks, and Stenographers as May be Necessary to Perform the Duties Required of it and Fix Their Compensation; Repealing All Acts and Parts of Acts in Conflict Therewith, and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 60-145, Revised Codes of Montana, 1947, enacted as section 22, chapter 238, Laws of Montana, 1953; as amended by section 1, chapter 234, Laws of Montana, 1955; as amended by section 1, chapter 198, Laws of Montana, 1957; be and the same is hereby amended to read as follows:

"60-145. **Privilege and license tax, quarterly statements, penalties — Drilling permit fees — Oil and gas conservation fund.**

Oil and gas operators and producers to pay assessment to provide fund for oil and gas conservation commission.

"A. For the purpose of providing funds for defraying the expenses of the operation and enforcement of this act, and expenses of said *oil and gas conservation* commission, the operators and producers of oil and gas shall be required to pay, and they will pay, *an assessment not to exceed the amounts set forth in the following schedule* on each and every barrel of crude petroleum originally produced, saved and marketed or stored within the State of Montana, or exported from the State of Montana, *and on each and every ten thousand (10,000) cubic feet of natural gas produced, saved and marketed or stored within the State of Montana, or exported therefrom,* to-wit:

"(1) On leases on which wells are producing an average of twenty-five (25) barrels *of crude petroleum* per day, or less, *an assessment not to exceed* one-fourth of one cent (¼¢) per barrel;

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"(2) On leases on which wells are producing an average of more than twenty-five (25) barrels *of crude petroleum* per day, *an assessment not to exceed* one-half of one cent (½¢) per barrel;

"(3) And, on wells producing, saving and marketing, storing, or exporting, natural gas, said operators and producers shall pay *an assessment not to exceed* one (1) mill per ten thousand (10,000) cubic feet of *natural gas.* "Such payments shall be made during the time *the oil and gas conservation* commission is in existence. *The commission shall by order, without prior notice and/or hearing, fix the amount of such assessments in the first instance and may, from time to time, without prior notice and/or hearing, reduce or increase the amount thereof as, in its judgment, the expenses chargeable against the oil and gas conservation fund may require; provided, however, that in no event shall the assessments fixed by the commission exceed the said limits hereinabove prescribed. The amounts of such assessments to be fixed by the commission in the first instance and from time to time as herein provided, shall be a percentage factor (not to exceed one-hundred percent) of the rates set forth in sub-paragraphs (1), (2) and (3) above, and the same percentage factor shall be used and applied by the commission in fixing the amount of the assessment on each barrel of crude production and each ten thousand (10,000) cubic feet of natural gas mentioned in said sub-paragraphs (1), (2) and (3) above. The* producers *of said crude petroleum and natural gas* shall *pay such assessments* on each and every barrel of crude petroleum and each ten thousand (10,000) cubic feet of natural gas produced for themselves, as well as for others, including royalty holders, and *said producers* shall be reimbursed for such payments made on crude oil and natural gas produced for others in the same manner as they are reimbursed for net proceeds tax paid on crude petroleum or natural gas produced for others as provided for in section *84-6208,* Revised Codes of Montana, 1947.

Commission to fix assessments.

"For the purposes of this section, a 'lease' shall mean that particularly described tract of land contained in a contract in writing, under seal, whereby a person having a legal estate in the land so described conveys a portion of his interest to another, in consideration of a certain

"Lease" defined.

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rental or other recompense or consideration. Further, for the purposes of this section, leases owned or operated by one lessee which in whole or in part cover or affect an underground reservoir containing a common accumulation of crude petroleum oil or natural gas, or both, or which are encompassed within or affected by one particular unit agreement shall be considered as one lease relative to payments to be made under this section.

Drilling permits—fees.

"In addition to the above-mentioned privilege and license tax, any person, before commencing the drilling of any oil or gas well, shall secure from the commission a drilling permit and shall pay to the commission therefor the following amounts: for each well whose estimated depth is thirty-five hundred (3500) feet or less, twenty-five dollars ($25.00); from thirty-five hundred and one (3501) feet to seven thousand (7,000) feet, seventy-five dollars ($75.00); seven thousand (7,000) feet and deeper, one hundred fifty dollars ($150.00).

Producer must render quarterly statements.

"B. Each producer of crude petroleum in the State of Montana shall, not later than the last day of each of the calendar months of January, April, July and October, of each and every calendar year, render a true statement to the state treasurer of the State of Montana, and a duplicate thereof to the commission, duly signed and sworn to, of all crude petroleum produced by him in this state during the preceding three (3) calendar months, and containing such other information as the commission may require, and shall accompany such statement with the payment to the state treasurer of the assessment provided for in subsection A. of this section, above, for the period covered by such statement. Each producer of natural gas in the State of Montana shall render like statements to the state treasurer of all natural gas produced by him in this state, and shall make payment of the assessment provided for in said subsection A. of this section, above, at such times and for such periods as may be prescribed by regulation of the commission. Any producer carrying on business at more than one (1) place or location in this state may include all such places of business in one (1) statement.

Penalty for delinquent assessments.

"C. Any such assessment not paid within the time herein specified shall be delinquent, and a penalty of twenty-five per cent (25%) thereof shall be added thereto

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and the whole thereof shall bear interest at the rate of one per cent (1%) per month from the date of delinquency until paid. Upon request of the commission it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same.

Attorney General to prosecute action to collect.

"D. All money collected under the provisions of this act shall be deposited in a special fund to be known as the 'Oil and Gas Conservation Fund' by the state treasurer of the State of Montana, and the fund to be raised shall be used for the purpose of paying all expenses of said commission and for no other purpose; all monies from this fund shall be used by said commission subject to the approval of the controller and biennial appropriations by the legislative assembly. Upon the termination of said commission any balance remaining in said fund shall be paid over to the general fund of the state. All accounts and expenditures of said commission shall be certified by the commission, approved as provided by law, and paid by the state treasurer upon warrants drawn by the state auditor out of the oil and gas conservation fund.

Deposit designated "oil and gas conservation fund."

"E. The commission may appoint a secretary and employ such other persons as experts, assistants, clerks, and stenographers, as may be deemed necessary to perform the duties that may be required of it, and fix their compensation; provided, however, that the total expenditures of such commission shall not exceed in the aggregate during any fiscal year, the amount actually collected under the provisions of subsection A. of this section, above, plus any amount appropriated for that purpose, or otherwise accruing to said fund. The members of the commission shall be allowed their several expenses incurred in the discharge of their duties, as is elsewhere provided in this act."

Authority given commission to employ.

Members allowed expenses.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved February 23, 1961.

CHAPTER 48

An Act Relating to Special Powers of County Commis-

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sioners to Deed Land for Parks; Authorizing Such Commissioners to Deed Land to Cities and Towns, in Addition to the State and Federal Government, for Public Parks or Recreational Grounds, by Amending 16-1131, Revised Codes of Montana, 1947; Containing a General Repealer Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1131, Revised Codes of Montana, 1947, is amended to read as follows:

Counties authorized to deed land for park purposes.

"16-1131. (4487.1) **Counties authorized to deed land for park to state or United States — Reversion of title.** The county commissioners of any county in the State of Montana are hereby authorized to convey to the State of Montana *or to any city or town in Montana* or to the United States of America any tract of county owned land not exceeding one thousand two hundred eighty acres (1,280), to be used for the establishment and maintenance of a park and to be maintained by the state, *city, town* or federal government as a public park or recreational grounds. Said land shall be deeded to the state, *city, town* or federal government without charge, but upon the condition that the same shall be devoted and maintained by the state, *city, town* or federal government for the purpose specified in this act, and in the event that said land shall cease to be used for such purposes for a period of five (5) years in succession, the title thereto shall revert to the county making such grant."

Reversion provided.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1961.

CHAPTER 49

An Act to Amend Section 92-1001, Revised Codes of Montana, 1947, and Section 92-1002, Revised Codes of Montana, 1947, Section 92-1006, Revised Codes of Montana, 1947, Relating to the Election of Employers to Become Subject to Compensation Plan No. 2 and Relating to the Filing of Records Pertaining Thereto With the Industrial Accident Board of the State of Montana; Clari-

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fying the Workmen's Compensation Act With Respect to the Exclusion of Public Corporations and Those Contracting With Public Corporations From Employers Who May Elect to be Bound by Plan No. 2; Providing for the Filing of Records Relating to the Election of Employers to be Bound by Plan No. 2 Upon Records Prescribed by the Board, and Providing for the Filing of Certificates of Insurance in Lieu of Insurance Policies; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-1001, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Employer electing Plan No. 2 may insure liability.

"92-1001. (2978) **Employer electing plan No. 2 to insure his liability.** Any employer *except those specified in section 92-206, Revised Codes of Montana, 1947, may,* by filing his election to become bound by compensation plan No. 2, insure his liability to pay the compensation and benefits *provided by this act with* any insurance company authorized to transact such business in this state."

Amending clause.

Section 2. That section 92-1002, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Certificate of insurance must accompany election.

"92-1002. (2979) **Duty of employer electing plan No. 2 — Amount of insurance necessary.** Any employer electing to become bound by compensation plan No. 2 shall *make his election on the form and in the manner prescribed by the board. Such election shall be accompanied by a certificate issued by the insurer on the form prescribed by the board, which shall state the effective date of the policy insuring the employer, its expiration date and such other information as may be required by the board to inform the board of the adequacy of the insurance."*

Amending clause.

Section 3. That section 92-1006, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Certificate of renewal must be filed.

"92-1006. (2983) **Renewals.** Every *certificate of* renewal of such policy shall be made and delivered to said board at least thirty days prior to the expiration of the expiring policy."

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Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1961.

CHAPTER 50

An Act to Provide for the Support of the Government of Montana for the Years 1961 and 1962; Providing a Severability Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Tax levies—1961.

Section 1. The following tax levies for state purposes are hereby made upon all property in the State of Montana, subject to taxation, for the year 1961, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to-wit:

General fund.

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary, under the provisions of section 84-713, Revised Codes of Montana, 1947.

University millage fund.

(b) For the university millage fund, to provide funds for the support of the greater university, as provided in referendum measure No. 61 and passed by vote of the people at the general election held November 4, 1958, six (6) mills.

University building fund.

(c) For the university of Montana building bond interest and redemption fund created under referendum measure No. 52, one (1) mill.

State hospital for insane.

(d) For the Montana state hospital for the insane bond interest and redemption fund created under referendum measure No. 57, one half (½) of one (1) mill.

State training school.

(e) For the Montana state training school bond interest and redemption fund created under referendum measure No. 58, one half (½) of one (1) mill.

Tax levies—1962.

Section 2. The following tax levies for state purposes are hereby made upon all property in the State of Montana, subject to taxation, for the year 1962, as ascertained by taking the percentage of the true and full value provided by law for the purposes of taxation, to-wit:

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General fund.

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary, under the provisions of section 84-713, Revised Codes of Montana, 1947.

University millage fund.

(b) For the university millage fund, to provide funds for the support of the greater university, as provided in referendum measure No. 61 and passed by vote of the people at the general election held November 4, 1958, six (6) mills.

University building fund.

(c) For the university of Montana building bond interest and redemption fund created under referendum measure No. 52, one (1) mill.

State hospital for insane.

(d) For the Montana state hospital for the insane bond interest and redemption fund created under referendum measure No. 57, one half (½) of one (1) mill.

State training school.

(e) For the Montana state training school bond interest and redemption fund created under referendum measure No. 58, one half (½) of one (1) mill.

Severability clause.

Section 3. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1961.

CHAPTER 51

An Act to Amend Section 16-1713 of the Revised Codes of Montana, 1947, Relating to Weed Control and Weed Seed Extermination Supervisors, to Provide That the Board of Weed Control and Weed Extermination Supervisors Shall Receive Mileage and Per Diem at the Prevailing Rate for Employees Within the County; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause

Section 1. That section 16-1713 of the Revised Codes of Montana, 1947, be, and the same is hereby amended as follows:

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Appointment of weed control and weed seed extermination supervisors.

"16-1713. **Appointment of weed control and weed seed extermination supervisors — Term of office — Compensation.** The commissioners shall appoint for each county in which a city, town, or county weed control and weed seed extermination district is created, a board of weed control and weed seed extermination supervisors, upon the creation of the first district, consisting of three members, who are owners of agricultural land within a district. They shall be appointed for a period of one, two, three (1, 2, 3) years, respectively, dating from the preceding July, and thereafter an appointment or reappointment shall be made annually for a period of three (3) years, with said appointment being made at the July meeting of the board of county commissioners. Said supervisors shall be public officers, and they shall organize by choosing a chairman and a secretary. The secretary may or may not be a member of the board. All such supervisors shall be entitled to mileage *and per diem at the prevailing rates for other county employees.* The supervisors may employ suitable and competent persons assistants and employees as may be necessary and provide for their compensation. It shall be the duties of said supervisors to supervise within their county the control program."

Term of office.

Allowance of mileage and per diem.

May employ assistants.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1961.

CHAPTER 52

An Act to Amend Section 16-3201, Revised Codes of Montana, 1947, Relating to the Creation of the Office of County Auditor in Counties of the State of Montana of the First, Second, Third and Fourth Classes; Providing That This Act Shall Not Apply to Counties With Population of Less Than Fifteen Thousand According to the Last Federal Census of 1960; Providing That in Fifth Class Counties Electing an Auditor, His Term Shall Expire at the Expiration of His Present Term; and Containing an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That section 16-3201, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Office of county auditor only in counties having population over 15,000.

"16-3201. (4824) **Creation of office of county auditor.** The office of county auditor is hereby created and the same shall exist in all counties of the State of Montana of the first, second, third and fourth classes. *Provided, however, that the provisions of this act shall not apply to counties having a population of less than fifteen thousand (15,000) persons according to the last Federal Census of 1960.* In counties of the 5th class where a county auditor has been elected he shall hold office until the expiration of his present term, but no longer."

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1961.

CHAPTER 53

An Act Relating to Vocational Rehabilitation and Education; Changing the Name of the Bureau of Vocational Rehabilitation to the Division of Vocational Rehabilitation by Amending Sections 41-801, 41-802, 41-803, 41-804 and 41-805, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 41-801, Revised Codes of Montana, 1947, is amended to read as follows:

"41-801. **Definitions.** As used in this act:

"State board."

"(a) 'State board' means the state board of education;

"Division."

"(b) '*Division*' means the *division* of vocational rehabilitation established by this act;

"Director."

"(c) 'Director' means the director of the *division* of vocational rehabilitation;

"Employment handicap."

"(d) 'Employment handicap' means a physical or mental condition which constitutes, contributes to or if not corrected, will probably result in an obstruction to occupational performance;

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"Disabled individual."

"(e) 'Disabled individual' means any person who has a substantial employment handicap;

"Vocational rehabilitation" and "vocational rehabilitation services."

"(f) 'Vocational rehabilitation' and 'vocational rehabilitation services' mean any services, provided directly or through public or private instrumentalities, found by the director to be necessary to compensate a disabled individual for his employment handicap, and to enable him in so far as possible to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance, and training books and materials;

"Rehabilitation training."

"(g) 'Rehabilitation training' means all necessary training provided to a disabled individual to compensate for his employment handicap including, but not limited to, manual, pre-conditioning, pre-vocational, vocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities;

"Physical restoration."

"(h) 'Physical restoration' means any medical, surgical or therapeutic treatment necessary to correct or substantially reduce a disabled individual's employment handicap within a reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical treatment, nursing services, hospital care not to exceed ninety (90) days, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory conditions;

"Prosthetic appliance."

"(i) 'Prosthetic appliance' means any artificial device necessary to support or take the place of a part of the body or to increase the acuity of a sense organ;

"Occupational licenses."

"(j) 'Occupational licenses' means any license, permit or other written authority required by any governmental unit to be obtained in order to engage in an occupation;

"Maintenance."

"(k) 'Maintenance' means money payments not exceeding the estimated cost of subsistence during vocational rehabilitation;

"Regulations."

"(l) 'Regulations' means regulations made by the director with the approval of the state board."

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Amending clause.

Section 2. Section 41-802, Revised Codes of Montana, 1947, is amended to read as follows:

Division established.

"41-802. Establishment of *division* of vocational rehabilitation. There is hereby established, in the state board, a division to be known as the *division* of vocational rehabilitation."

Amending clause.

Section 3. Section 41-803, Revised Codes of Montana, 1947, is amended to read as follows:

Director to administer—duties.

"41-803. **Director of *division* of vocational rehabilitation.** The *division* shall be administered, under the general supervision and direction of the state board, by a director appointed by such board in accordance with established personnel standards and on the basis of his education, training, experience, and demonstrated ability. In carrying out his duties under this act, the director

"(a) shall make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination thereof, for vocational rehabilitation services, procedures for fair hearings and such other regulations as he finds necessary to carry out the purposes of this act;

"(b) shall, with the approval of the state board, establish appropriate subordinate administrative units within the *division*;

"(c) shall, with the approval of the state board, appoint such personnel as he deems necessary for the efficient performance of the functions of the *division;*

"(d) shall prepare and submit to the state board annual reports of activities and expenditures, and, prior to each regular session of the legislature, estimates of sums required for carrying out this act and estimates of the amounts to be made available for this purpose from all sources;

"(e) shall make certification for disbursement, in accordance with regulations, of funds available for vocational rehabilitation purposes;

"(f) shall, with the approval of the state board, take such other action as he deems necessary or appropriate to carry out the purposes of this act;

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"(g) may, with the approval of the state board, delegate to any officer or employee of the *division* such of his powers and duties, except the making of regulations and the appointment of personnel, as he finds necessary to carry out the purposes of this act."

Amending clause.

Section 4. Section 41-804, Revised Codes of Montana, 1947, is amended to read as follows:

State board to act through division—authority granted.

"41-804. **Administration.** Except as otherwise provided by law, the state board, through the *division,* shall provide vocational rehabilitation services to disabled individuals determined by the director to be eligible therefor, and, in carrying out the purposes of this act, the *division* is authorized, among other things,

"(a) to cooperate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of disabled individuals, in studying the problems involved therein, and in establishing, developing and providing, in conformity with the purposes of this act, such programs, facilities and services as may be necessary or desirable;

"(b) to enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned;

"(c) to conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals."

Amending clause.

Section 5. Section 41-805, Revised Codes of Montana, 1947, is amended to read as follows:

Board authorized to cooperate with federal government.

"41-805. **Cooperation with federal government.** The state board, through the *division,* shall cooperate, pursuant to agreements, with the federal government in carrying out the purposes of any federal statutes pertaining to rehabilitation and is authorized to adopt such methods of administration as are found by the federal government to be necessary for the proper and efficient operation of such agreements or plans for rehabilitation and to comply with such conditions as may be necessary to secure the full benefits of such federal statutes."

Approved February 23, 1961.

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CHAPTER 54

An Act to Amend Section 78-202, Revised Codes of Montana, 1947, Relating to the Purpose and Use of the Montana Veterans and Pioneers Building, by Providing for the Use of Same by World War I Veterans, of Montana, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 78-202 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Purpose of Montana veterans and pioneers building.

"78-202. **Purpose and use of building.** Said building shall constitute a perpetual memorial to the war veterans and the pioneers of Montana, and when completed, said building shall be devoted to the use of the war veterans organizations set forth in sections 78-301 to 78-305, *the World War I Veterans of Montana,* the historical society of Montana, the society of Montana pioneers, and the sons and daughters of Montana pioneers, and for the housing of books, records, documents, and other property of such veterans and organizations; and there shall be provided in said building appropriate office quarters for the state headquarters and officers and employees of such veterans and organizations, and for the librarian and other employees of the historical society of Montana."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1961.

CHAPTER 55

An Act to Amend Section 44-127, Revised Codes of Montana, 1947, Relating to Creation of the State Library Extension Commission; to Amend Section 44-128, Revised Codes of Montana, 1947, Relating to Employment by the State Library Extension Commission of Its Employees; and to Amend Section 44-129, Revised Codes of Montana, 1947, Relating to Powers and Duties of the Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 44-127, Revised Codes of Montana, 1947, is amended to read as follows:

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State library commission created.

"44-127. (1575.1) **State library commission created.** A commission is hereby created to be known as the state library commission. This commission shall consist of the librarian of the state university as chairman, the state superintendent of public instruction, ex-officio member, and the three members to be appointed by the governor, who shall serve one, two and three years respectively. As these terms expire, annually thereafter one person shall be appointed, for a term of three years. The members of said commission shall receive no compensation for their services except their actual and necessary traveling expenses."

Amending clause.

Section 2. Section 44-128, Revised Codes of Montana, 1947, is amended to read as follows:

Employment of librarian and assistants—compensation and expenses.

"44-128. (1575.2) **Employment of** *librarian* **and assistants.** The commission shall employ *as its executive officer a librarian who shall be a graduate of an accredited library school, and who shall not be a member of the commission,* for such compensation as the commission may deem adequate, and who shall perform the duties assigned by the commission, to serve at the will of the commission. The commission may also employ such other assistants as shall be required for the performance of the commission's work. In addition to their salaries, the *librarian* and assistants shall be allowed their *mileage and per diem* while absent from the commission office in the service of the commission."

Amending clause.

Section 3. Section 44-129, Revised Codes of Montana, 1947, is amended to read as follows:

Powers and duties of commission.

"44-129. (1575.3) **Powers and duties of the commission.** The work of the commission shall be to give assistance and advice to all libraries in the state and to all communities in the state which may propose to establish libraries, as to the best means of establishing and administering such libraries, or improving established libraries, and aiding in the establishment of traveling libraries; the

Commission shall act as state board.

commission shall act as a state board of *professional* standards and library examiners and perform all the duties of said board as provided in section 44-203; obtain, each year, from all libraries in the state, reports showing the condition, growth, and development and such other facts and statistics as may be deemed of public interest by the commission; the commission shall make a biennial report to the governor of the state on or before the first day of

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January covering the work of the commission, and incorporating reports of libraries in the state."

Approved February 24, 1961.

CHAPTER 56

An Act to Amend Section 75-1804, Revised Codes of Montana, 1947, Relating to Limitations in Connection With the Creation of School Districts or in Consolidation or Changing the Boundaries Thereof; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-1804, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"75-1804. **Limitation in consolidating or changing boundaries of districts.** No school district shall be created nor boundaries changed between March 1st and July 1st of any calendar year." Limitation on creation or changing school districts.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 24, 1961.

CHAPTER 57

An Act to Provide for the Payment of License Tax for Any Racing Association Taking Advantage of the Provisions of Section 94-2425, Revised Codes of Montana, 1947; Providing for Collection of Said License Tax and for the Maintaining of Records by Said Racing Associations; Designating the County Treasurer as the Officer to be Charged With the Responsibility of Collecting Said License Tax and Supervising Said Records to be Furnished by Said Racing Association; Directing That Said License Tax Shall be Divided Between the County and the General Fund of the State of Montana; Providing a Penalty; Excepting From This Act, County Fair Boards; and Providing for an Effective Date of This Act.

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Be it enacted by the Legislative Assembly of the State of Montana:

Racing association to furnish report of proceeds of racing event.

Section 1. Every club, partnership, individual, corporation or association which may hold or exercise any privileges conferred by section 94-2425, Revised Codes of Montana, 1947, relating to racing associations shall, within twenty (20) days after the determination of any racing event, furnish to the county treasurer in the county wherein said racing takes place, a written report, duly verified by one of its officers, showing the number of bets, wagers or entrance fees sold to or contributed by patrons for such racing event and the amount of gross proceeds thereof.

Racing association to pay county treasurer license tax based on proceeds.

Section 2. Within twenty (20) days of the time of said racing event, said racing association shall pay to the county treasurer of the county where said racing event was held a license tax on the amount of bets, wagers or entrance fees handled daily at the following rates, to-wit:

(1) Up to ten thousand dollars ($10,000.00) one-fourth (¼) of one (1) per centum.

(2) On the next five thousand dollars ($5,000.00) one-half (½) of one (1) per centum.

(3) On the next five thousand dollars ($5,000.00) three-fourths (¾) of one (1) per centum.

(4) On the next five thousand dollars ($5,000.00) one (1) per centum.

(5) On the next ten thousand dollars ($10,000.00) two (2) per centum.

(6) On any excess over thirty-five thousand dollars ($35,000.00) three (3) per centum.

Subject to a minimum tax of twenty-five dollars ($25.00) per racing day.

75 per cent payable to general fund.

Seventy-five (75) percent of said tax shall be transmitted to the state treasurer by the county treasurer within a period of ten (10) days after its collection and be placed in the general fund of the State of Montana; the balance of said tax shall be retained by the respective county for its poor fund.

Balance to county poor fund.

Penalty provided.

Section 3. **Penalty.** Each club, partnership, individual, corporation or association, who fails, neglects or refuses to make and file the report or reports required by

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this act in the manner or within the time herein provided, or who shall make any false statement with reference to or in connection with such report or reports, shall be deemed guilty of having committed a misdemeanor and upon conviction thereof shall be fined in an amount of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), and each and every day that such violation shall continue shall constitute a separate and distinct offense.

County fair boards excepted.

Section 4. All county fair boards are expressly excepted from the provisions of this act.

Effective April 15, 1961.

Section 5. This act shall be effective from and after the fifteenth (15th) day of April, 1961.

Approved February 24, 1961.

CHAPTER 58

An Act to Amend Section 75-2906, Revised Codes of Montana, 1947, Relating to Pauper Children, by Deleting Therefrom the Requirements That School Trustees Furnish Clothing and Medical Aid to Indigent Children; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-2906, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Truant officer to report pauper children.

"75-2906. (1140) **Pauper children.** When any truant officer is satisfied that any child compelled to attend school by the provisions of this chapter is unable to attend school because absolutely required to work at home or elsewhere, in order to support itself, or help support or care for others legally entitled to its services, who are unable to support or care for themselves, or who are unable to attend school because of some physical ailment, the truant officer shall report the case to the authorities charged with the relief of the poor, and it shall be the duty of said officers to afford such relief as will enable the child to attend school the time each year required under the provisions of this chapter. Such child shall not be

Poor relief afforded to enable child to attend school.

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considered or declared a pauper by reason of the acceptance of the relief herein provided for. In case the child or its parents or guardians refuses or neglects to take advantage of the provisions thus made for its instruction, such child may be committed to *a state institution at the discretion of the court.*"

Child may be committed to state institution.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1961.

CHAPTER 59

An Act to Abolish the Montana Poultry Improvement Board and Transfer the Duties of Said Board to the Commissioner of Agriculture by Amending Sections 3-2201, 3-2202, 3-2204, 3-2205, 3-2207, 3-2209, 3-2211 and 3-2212, Revised Codes of Montana, 1947, and by Amending Section 3-2203, Revised Codes of Montana, 1947, Providing That Said Board Shall Serve Without Compensation.

Be it enacted by the Legislative Assembly of the State of Montana:

Poultry improvement board abolished.

Section 1. The Montana poultry improvement board is abolished. All records and property, including unexpended appropriations, and any other moneys of the Montana poultry improvement board are transferred to the department of agriculture.

Amending clause.

Section 2. Section 3-2201, Revised Codes of Montana, 1947, is amended to read as follows:

Commissioner of agriculture to promote welfare of poultry industry.

"3-2201. *The commissioner of agriculture shall have the following powers and duties:*

(1) To promote the welfare of the poultry industry in Montana by: (a) determining dependable sources from which poultry may be purchased; (b) co-operating with other state and federal agencies in programs which will advance, promote, and improve the poultry industry in Montana; (c) improving poultry breeding in Montana by certification of the systematic breeding programs of the various hatcheries within the state; (d) co-operating with the Montana livestock sanitary board in controlling and

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eradicating communicable and infectious diseases of poultry; (e) by systematic inspection of chick dealers, hatcheries and hatching-egg-producers engaged in marketing poultry and poultry products.

"(2) To act as the official state agency for Montana in co-operation with the animal and poultry research branch, United States department of agriculture, for the purpose of furthering the objectives and supervising the state's participation in the national poultry improvement plan.

Commissioner to appoint advisory board.

The commissioner of agriculture shall appoint a poultry advisory board consisting of the extension specialist on poultry, Montana state college, and two other members who shall be competent and experienced poultrymen, who shall be the owners or operators of commercial poultry hatcheries. The commissioner may call on this board from time to time for advice in administering the poultry improvement program."

Amending clause.

Section 3. Section 3-2202, Revised Codes of Montana, 1947, is amended to read as follows:

"Commissioner."

"3-2202. **Definitions.** As used in this act unless the context otherwise requires, *"commissioner" means the "commissioner of agriculture."*

"Breeder."

" 'Breeder' means any person, firm, corporation or association that breeds, handles or deals in chickens, ducks, geese, turkeys or other domestic fowl.

"Hatcher."

" 'Hatcher' means any person who is in the business of hatching the eggs of chickens, ducks, geese, turkeys or other domestic fowl by natural or artificial means.

"Distributor."

" 'Distributor' means any person, who is in the business of distributing, selling, or otherwise disposing of to the public baby, young or other chickens, ducks, geese, turkeys or other domestic fowl, or eggs for hatching purposes including what is known as 'over the counter sale' of baby chicks.

"Hatching-egg producer."

" 'Hatching-egg-producer' means any person who keeps poultry and from such poultry produces eggs for sale or other disposal for hatching purposes.

"Poultry."

" 'Poultry' means chickens, ducks, geese, turkeys or other domestic fowl."

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Amending clause.

Section 4. Section 3-2204, Revised Codes of Montana, 1947, is amended to read as follows:

Commission to adopt plan for inspection.

"3-2204. **Powers and duties.** *The commissioner is* authorized and directed to formulate and adopt a plan or plans whereby hatchery, baby chick and/or poult dealers and hatching-egg-producers shall be inspected by employees of the *department of agriculture.*

Commissioner to conduct hearings on request.

"No one shall be refused a license or have his license cancelled under this act unless and until he has been given an opportunity to have a hearing on the matter before the *commissioner.* The person concerned may obtain same by submitting a written request to the *commissioner* for such hearing. The *commissioner,* in setting the time for hearing, shall give at least twenty (20) days' notice of said hearing to such person. The *commissioner* will adopt reasonable rules and regulations governing the conduct of hearings and shall specifically provide that any person requesting such hearing be permitted to be represented by legal counsel.

Notice.

Commissioner to adopt breeding plan of accreditation and certification.

"The *commissioner* may adopt a standard breeding plan of accreditation and certification sponsored by the United States department of agriculture or any other plan sponsored by said department and to cooperate with said department in matters of poultry improvement *and* sanitary provisions. The *commissioner* is further authorized to prescribe and collect fees for inspection and supervision and to prescribe and furnish labels, bands and certificates of accreditation and certification and such other supplies as may be necessary; and to prescribe and collect fees for the same. The *commissioner* is further authorized to do such other things as *he* may deem needful and expedient to improve poultry breeding, poultry sanitation, and practices, and to give effect to this act."

Fees authorized.

Amending clause.

Section 5. Section 3-2205, Revised Codes of Montana, 1947, is amended to read as follows:

Commission to license poultry business.

"3-2205. **License fees.** No person shall hereafter engage in the business of a hatchery, baby-chick and/or poult dealer, salesman, or hatching-egg-producer in Montana, without first securing from the *commissioner* a license to engage therein, which license shall expire on the first day of January of each year, except in cases of flock owners, and in those cases the license shall expire twelve (12)

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months after the last official pullorum test was conducted by the *livetock sanitary* board.

"Licenses will be issued only upon payment to said *commissioner* of such annual fees as may be fixed by said *commissioner* for each of the said occupations, not exceeding, however, the amounts herein set forth, to-wit: (a) hatcheries—under 50,000 capacity—$10.00; (b) hatcheries —over 50,000 capacity—$25.00; (c) baby chick and/or poult dealers and salesmen—$5.00; (d) breeders, hatching-egg-producers, the sum of $1.00 up to 200 breeder hens; $2.50 up to 400 breeder hens; $5.00 up to 800 breeder hens; $7.50 up to 1,250 breeder hens; $10.00 over 1,250 breeder hens per year." Annual fees required.

Section 6. Section 3-2207, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"3-2207. **Disposition of fees.** *Ninety-five per cent (95%) of* all fees collected under this act shall be deposited in the state treasury to the credit of the Montana poultry improvement *fund, and five per cent (5%) of all such fees shall be deposited in the state treasury to the credit of the general fund.*" Poultry improvement fund. General fund.

Section 7. Section 3-2209, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"3-2209. **Products to be labeled.** All poultry and products sold or shipped under the authority of this act shall be uniformly labeled with designs prescribed and furnished by the *commissioner,* provided that all labeling for testing, approval and accreditation as to disease shall be first approved by the Montana livestock sanitary board." Poultry products uniformly labeled.

Section 8. Section 3-2211, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"3-2211. **May cancel certificates.** In his discretion the *commissioner* may cancel any certificate of accreditation or certification issued under *his* authority. Likewise the secretary and executive officer of the Montana livestock sanitary board may cancel any certificate of testing, approval or accreditation issued under the authority of his board for violation of this act or any rule or regulation adopted hereunder; and any person, firm, association, partnership or corporation who shall violate any Commissioner may cancel certificate.

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provision of this act or any regulation adopted hereunder shall be guilty of a misdemeanor."

Amending clause.

Section 9. Section 3-2212, Revised Codes of Montana, 1947, is amended to read as follows:

Violation made a misdemeanor—additional penalties.

"3-2212. **Violation a misdemeanor.** Violation of any of the provisions of this act shall be a misdemeanor; and as additional or alternative penalties, the *commissioner* may revoke any license issued, and may by injunction restrain the continuance of any operations covered by this act."

Amending clause.

Section 10. "That section 3-2203, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Expenses of board authorized.

"3-2203. **Board to serve without compensation.** The members of the Montana Poultry *Advisory* Board shall serve without compensation as such, but the expenses of each, necessarily incurred in the discharge of his duties, shall be paid by the state."

Approved February 24, 1961.

CHAPTER 60

An Act to Amend Section 75-3616, Revised Codes of Montana, 1947, Relating to Disbursements From the State Public School Equalization Fund; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3616, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Distribution of state public school equalization fund.

"75-3616. **Distribution of funds — Reports may be required.** After July 1, 1949, the state board of education shall, in the months of December and April of each year, order disbursements from the state public school equalization fund within the limitations hereinafter specified and upon the basis of reports made to the state superintendent of public instruction, to any county treasurer who controls the fund of any school district or joint school dis-

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trict which, as established by its budget duly approved for the current school year, will not have sufficient funds to maintain the foundation financial program after receipt by it of its apportioned share from the permanent school fund of the state, from other constitutional sources, if any, *from the district levy of five mills for the foundation program* provided for by section 75-1723, the county levies provided for by this act, and from all other *regular* sources *of revenue required to be used to finance the foundation program as provided in sections 75-1723 and 75-4516.1;* provided, however, that the amount apportioned to any school district from said state public school equalization fund, when added to the amount apportioned to such school district from the permanent school fund, shall not exceed fifty percent (50%) of the total foundation program of such district, computed at the rates and amounts set forth in section 75-3612.

Limitation.

"Each order of the state board of education, acting as the public school equalization board, for disbursements of funds from the state public school equalization fund, shall be certified to the state auditor and state treasurer, whereupon the state auditor shall draw his warrants in accordance with such order and the state treasurer shall pay the same to the several county treasurers for credit to the school districts as provided in such order."

Order of board certified to state auditor and state treasurer.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 25, 1961.

CHAPTER 61

An Act to Amend Section 40-3011, Revised Codes of Montana, 1947, as Enacted by Chapter 286, Session Laws of Montana, 1959, Relating to the Valuation of Life Insurance Policies and Contracts; Prescribing Additional Mortality Tables for Such Valuation; Providing an Effective Date for This Act; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 40-3011, Revised Codes of Mon-

Amending clause.

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tana, 1947, as enacted by chapter 286, Montana session laws, 1959, be and the same is hereby amended to read as follows:

Insurance commissioner to value reserve liabilities annually.

"40-3011. **Standard valuation law — Life insurance.** (1) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. For the purpose of making such valuation the commissioner may employ a competent actuary who shall be paid by the insurer for which the service is rendered; but a domestic insurer may make such valuation and it may be received by the commissioner upon satisfactory proof of its correctness. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

Calculation and procedure.

"Any insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

"(2) This subsection shall apply to only those poli-

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cies and contracts issued prior to the operative date of section 40-3831 (the standard nonforfeiture law).

Minimum standard of valuation prior to standard nonforfeiture law.

"The minimum standard of valuation on all policies of domestic life insurers issued prior to January 1, 1922, shall be the American experience table of mortality and interest at three and one-half per cent (3½%) per annum, with preliminary term insurance for the first policy year, and for policies of such insurers issued subsequent to December 31, 1921, shall be the American experience table of mortality with interest at three and one-half per cent (3½%) per annum, with preliminary term insurance for the first policy year, except as follows: If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty (20) years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for life insurance under twenty (20) payment life preliminary term policies of the same insurer, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty (20) payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium reserve sufficient to provide for a pure endowment at the end of the premium payment period equal to the difference between the value at the end of such period of such a twenty (20) payment life preliminary term policy and the full net level premium reserve at such time of such a limited payment life or endowment policy.

"Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

"(3) This subsection shall apply to only those policies and contracts issued on or after the operative date of section 40-3831 (the standard nonforfeiture law).

Minimum standard of valuation after standard nonforfeiture law.

"(a) The minimum standard for the valuation of all such policies and contracts shall be the commissioner's reserve valuation method defined in subdivision (b), three and one-half per cent (3½%) interest, and the following tables:

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Minimum standard of valuation after standard nonforfeiture law—continued.

"(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the commissioner's 1941 standard ordinary mortality table *for such policies issued prior to the operative date of subsection (8-a) of section 40-3831 (the standard nonforfeiture law) as amended, and the commissioners' 1958 standard ordinary mortality table for such policies issued on or after such operative date;* except, that for any category of such policies issued on female risks, modified net premiums and present values, referred to in subdivision (b), may be calculated, at the option of the insurer with the approval of the commissioner, according to an age younger than the actual age of the insured.

"(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the 1941 standard industrial mortality table.

"(iii) For *individual* annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 standard annuity mortality table *or, at the option of the insurer, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.*

"(iv) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

"(v) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—*for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the insurer, the class (3) disability table (1926); and for policies issued prior to January 1, 1961, the class (3) disability table (1926). Any such table shall,* for active lives, be combined with a mortality table

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Minimum standard of valuation after standard nonforfeiture law—continued.

permitted for calculating the reserves for life insurance policies.

"*(vi)* For accidental death benefits in or supplementary to policies—*for policies issued on or after January 1, 1966, the 1959 accidental death benefits table; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the insurer, the intercompany double indemnity mortality table; and for policies issued prior to January 1, 1961,* the intercompany double indemnity mortality table. *Either table shall be* combined with a mortality table permitted for calculating the reserves for life insurance policies.

"*(vii)* For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

"(b) Reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

"(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

"(B) A net one year term premium for such benefits provided for in the first policy year.

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"Reserves according to the commissioner's reserve valuation method for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) annuity and pure endowment contracts, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this subdivision (b), *except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.*

"(c) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in subdivision (b) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

"(d) Reserves for any category of policies, contracts or benefits as established by the commissioner, may be calculated at the option of the insurer according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. Provided, however, that reserves for participating life insurance policies may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half per cent (½%) the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.

Deficiency reserves.

"(e) Deficiency reserves. If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method

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used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1961.

Section 3. This act shall be in full force and effect from and after July 1, 1961.

Approved February 25, 1961.

CHAPTER 62

An Act to Amend Sections 75-3722, 75-3723, 75-1710, and 75-4515, Revised Codes of Montana, 1947, Relating to the Duties of County Treasurer with Respect to School Funds; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3722, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duties of county treasurer—separate account of school moneys.

"75-3722. (1213) **Duties of county treasurer.** It shall be the duty of the county treasurer of each county:

"1. To receive and hold all school moneys and to keep a separate account of their disbursements to the several school districts which shall be entitled to receive them according to the apportionment of the county superintendent. *A separate account shall be maintained for each fund supported by a county-wide levy for a specific, authorized purpose, including (1) the county ten-mill levy for elementary schools, (2) the county ten-mill levy for high schools, (3) the county levy for high school transportation as provided in section 75-3414, and (4) the county levy for the high school retirement systems as provided in sections 68-603 and 75-2709.*

Quarterly statement.

"2. To render quarterly, beginning September first,

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to each board of trustees, through its chairman, an itemized statement of warrants paid and moneys received for the district for the preceding quarter.

To notify county superintendent of funds.

"3. To notify the county superintendent of public schools of the amount of county school funds in the county treasury subject to apportionment whenever required, and to inform said county superintendent of the amount of school moneys belonging to any other fund subject to apportionment.

To pay warrants.

"4. To pay all warrants drawn on county or district school moneys in accordance with the provisions of this chapter, whenever such warrants are countersigned by the district clerk and also countersigned by the county superintendent as provided in section 75-1640.

Separate fund for succeeding school year.

"5. To keep in a separate fund the proceeds of any levy made to cover expenses of schools for any part of the succeeding school year and no warrants shall be paid out of said funds for the preceding school year either before or after the fund is transferred. At the beginning of the school year for which the fund is raised it shall be transferred to the general fund of the district.

To receive delinquent school taxes, interest and penalties.

"6. To receive all interests and penalties on all delinquent school taxes and credit the same to the fund and district for which the original taxes were levied.

Separate accounts of regular school.

"7. To keep for each school district, separately for elementary and high schools, and for each county high school, a separate, detailed account of the receipts, disbursements and cash balances for each of the several regular funds of the school budget for which a tax levy is ordinarily made.

Separate accounts of special school funds.

"8. To keep for each school district, separately for elementary and high schools, and for each county high school, a separate, detailed account of the receipts, disbursements and cash balances for each special, non-budgeted fund supported by non-tax revenues, including (a) the self-supporting school lunch fund, (b) miscellaneous federal funds for special purposes including vocational education and the national defense education act, (c) the building fund, (d) the adult education fund when non-tax supported, (e) the self-supporting housing and dormitory fund and (f) any other special fund required by the trustees."

Amending clause.

Section 2. That section 75-3723, Revised Codes of Mon-

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tana, 1947, be, and the same is hereby amended to read as follows:

"75-3723. (1214) **Same — Report.** To make annually, on or before the tenth day of *July* in each year, a financial report of the last school year and fiscal year ending June thirtieth, to the county superintendent of schools, in such form as *is prescribed by section 75-1710 for elementary schools and section 75-4515 for high schools.*

Annual financial report to county superintendent.

Section 3. That section 75-1710, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"75-1710. (1019.10) **County treasurer's statement of cash on hand and obligations to be met.** After the county superintendent has attached such schedule or schedules to the preliminary budget for each school district, and before the 10th day of July, the county treasurer must prepare statements for each school district showing the amount of cash on hand at the close of the last school year, obligations to be met during the current school year, and details of bonds outstanding, which statements must be attached to the preliminary budget for such school districts, and which statements shall be substantially in the following form:

County treasurer's statement to be attached to preliminary budget.

Form.

"INFORMATION TAKEN FROM RECORDS OF COUNTY TREASURER'S OFFICE.

"SECTION IV. — CASH ON HAND AND OBLIGATIONS TO BE MET:

I. For the District General Fund
A. Cash on hand June 30 (including Reserve) $.....
B. Amount of Outstanding Warrants ..... $.....

II. For the District Transportation Fund
A. Cash on hand June 30 (including Reserve) $.....
B. Amount of Outstanding Warrants ..... $.....

III. For the District Bus Depreciation Reserve Fund
A. Cash on hand June 30 ..... $.....

IV. For the District Self-Supporting School Lunch Fund
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

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V. For the District Tuition Fund
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

VI. For the District Retirement Fund
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

VII. For the District Debt Service Fund
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

VIII. For the District Miscellaneous Federal Funds
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

IX. For the District Building Fund
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

X. For the District Self-Supporting Housing and Dormitory Fund
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

XI. For Any Other Required Fund of the District
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....''

''SECTION V.—DETAILS OF BONDS ISSUED AND OUTSTANDING:

Amount of Issue	Amount Outstanding	Date of Issue	Date of Maturity	Rate of Interest	Sinking Fund Requirements for Principal for Each Year.

.....
County Treasurer.''

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County treasurer's statement of school funds to county superintendent.

"Before the 10th day of July, the county treasurer shall prepare statements for each of the county school funds supported by county-wide levies, showing the amount of cash on hand at the beginning of the immediately preceding fiscal year, the receipts, the disbursements, the amount of cash on hand at the close of the year, and the amount of any outstanding warrants, which statements shall be transmitted to the county superintendent by the 10th day of July, and which statements shall be subtsantially in the following form:

Form.

"1. For the County Common School Fund

A. Cash on hand July 1 (preceding year)		$.....
B. Receipts		
1. From 10-mill levy	$.....	
2. From other sources (specify)		
a.	$.....	
b.	$.....	
3. Total Receipts		$.....
C. Total Available for Disbursement (A + B3)		$.....
D. Disbursements		
1. For foundation program equalization	$.....	
2. For transportation reimbursement	$.....	
3. Total Disbursements		$.....
E. Cash on hand June 30 (C—D3)		$.....

2. For the County's High School Ten-Mill-Levy Fund

A. Cash on hand July 1 (preceding year)		$.....
B. Receipts from 10-mill levy		$.....
C. Total Available for Disbursement (A + B)		$.....
D. Disbursements		
1. For foundation program equalization	$.....	
2. For tuition payments	$.....	
3. Total Disbursements		$.....
E. Cash on hand June 30 (C—D3)		$.....

3. For the County's High School Transportation Fund

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A. Cash on hand July 1 (preceding year) ..... $.....
B. Receipts from county-wide levy $.....
C. Total Available for Disbursement (A + B) ..... $.....
D. Disbursements ..... $.....
E. Cash on hand June 30 (C—D) .... $.....

4. For the County's High School Retirement Fund
A. Cash on hand July 1 (preceding year) ..... $.....
B. Receipts from county-wide levy $.....
C. Total Available for Disbursement (A + B) ..... $.....
D. Disbursements ..... $.....
E. Cash on hand June 30 (C—D) .. $....."

Amending clause.

Section 4. That section 75-4515, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

County treasurer's statement of cash and registered warrants—high schools.

"75-4515. (1263.10) **County treasurer's statement of cash and registered warrants.** Between the thirtieth day of June and the tenth day of July, the county treasurer shall prepare a statement for each school district maintaining a high school and for the county high school, if any, showing the amount of cash on hand, if any, in *each of the regular funds of* the district or county high school at the close of the last school year, and obligations to be met during the current school year, which statements must be attached to the preliminary high school budgets for such district, and county high school, and which shall be in substantially the following form:

Form.

"INFORMATION FROM RECORDS OF COUNTY TREASURER'S OFFICE.

"Cash on hand June 30, 19....., and obligations to be met.

"I. For the General Fund of the District or County High School
A. Cash on hand June 30 (including Reserve) $.....
B. Amount of Outstanding Warrants ..... $.....

II. For the Transportation Fund of the District or County High School

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A. Cash on hand June 30 (including Reserve) $.....
B. Amount of Outstanding Warrants ..... $.....

III. For the Bus Depreciation Reserve Fund of the District or County High School
A. Cash on hand June 30 ..... $.....

IV. For the Self-Supporting School Lunch Fund of the District or County High School
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

V. For the Retirement Fund of the District or County High School
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

VI. For the Debt Service Fund of the District or County High School
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

VII. For the Miscellaneous Federal Funds of the District or County High School
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

VIII. For the Building Fund of the District or County High School
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

IX. For the Adult Education Fund of the District or County High School
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

X. For the Self-Supporting Housing & Dormitory Fund of the District or County High School
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

XI. For Any Other Required Fund of the District or County High School
A. Cash on hand June 30 ..... $.....
B. Amount of Outstanding Warrants ..... $.....

.....
County Treasurer.''

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Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1961.

CHAPTER 63

An Act to Permit an Incorporated City or Town to Prevent the Diversion or Passage of Water Through the Limits of Such City or Town in Unfenced, Open Ditches That Terminate in Such City or Town in Order to Protect Persons From Drowning, Except Commercial Irrigation Ditches; Permitting a City or Town to Declare Such a Ditch a Public Nuisance; Permitting a City or Town to Have Such an Unfenced, Open Ditch Enjoined as a Public Nuisance if Corrective Measures Are Not Taken by Interested Parties.

Be it enacted by the Legislative Assembly of the State of Montana:

Control of ditch water in inhabited areas—public interest—to prevent drowning of children.

Section 1. The legislative assembly declares that the control of ditch water in inhabited areas of Montana is affected with the public interest. The purpose of this act is to prevent drowning of children in ditches filled or partially filled with water within the limits of an incorporated city or town, if such ditches terminate within the limits of such city or town. This act shall be deemed an exercise of the police power of the state in and for the protection of the welfare, health, peace and safety of the people of Montana.

Nothing in this act shall be construed as intending to effectuate the abandonment of any valid water right. This act shall be construed merely as a regulation in the public interest so that the diversion, transportation and use of water in such ditches in cities and towns shall be in a safe manner, as defined by this act.

Section 2. Notwithstanding any provision contained in title 89, Revised Codes of Montana, 1947, or any law pertaining to the use of water in Montana, it is hereby declared that water which flows through the limits of an incorporated city or town in an unfenced, open ditch that terminates within the limits of such city or town is a public nuisance, if such city or town declares it to be such nuisance, acting through its governing body.

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City or town may declare public nuisance—determine corrective measures.

Section 3. The governing body of the city or town is hereby given the power:

(1) To investigate the dangerous condition of such ditches terminating within the corporate limits and to declare any such ditch a public nuisance, and

(2) To determine the measures necessary to remove the danger and public nuisance, including fencing, use of culvert or other protective device based upon standards to be determined by such city or town.

Notice.

Section 4. When a public nuisance has been declared as provided in this act, the city or town shall give public notice for at least sixty (60) days to owners of the ditch and of any water rights affected that such ditch has been declared a public nuisance and that it shall be closed and filled unless the owners of such rights desire to keep the ditch open. Such notice shall include publication once each week in an established newspaper published within the city or town, if one exists, or in its absence in the official county newspaper for at least eight (8) successive weeks.

Rights of users to comply within six months.

Section 5. If a person claims that the water has not been abandoned and claims the right to use water in a ditch that the city or town has declared a public nuisance, he shall notify the city or town before the expiration of the sixty (60) day period that he wishes to continue the use of such water within the city or town and that he, individually or with others, will provide such protective devices as ordered by the city or town. If such notice is given, the person or persons claiming such right or rights shall have a period not to exceed six (6) months to remove the public nuisance in the manner ordered by the city or town.

City or town may close ditch.

If the city or town approves the work, it shall permit the water to flow into the city or town. If the protective device is not provided, or if it does not meet specifications required by the city or town, the city or town may designate such ditch abandoned and order it closed or filled when the six-month period ends.

Commercial irrigation excepted.

Section 6. This act does not apply to ditches carrying water used for commercial irrigation purposes.

Approved February 25, 1961.

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CHAPTER 64

An Act to Amend Sections 75-1305 and 75-1308, Revised Codes of Montana, 1947, Relating to the Printing and Furnishing of Copies of the School Laws by the Superintendent of Public Instruction; Containing a Repealing Clause and Fixing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1305, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Blank forms to be furnished.

"75-1305. (935) **Blanks.** He shall cause to be printed and furnished to the proper officers or persons all school registers, reports, statements, notices, and blanks for returns needed or required to be used in the schools or by the school officers in the state."

Amending clause.

Section 2. That section 75-1308, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Printing of school laws.

"75-1308. (938) **Printing of school laws.** *Whenever he shall deem necessary, but not more frequently than once in every four years,* he shall cause to be printed the *complete* school laws of the state, with such notes and decisions thereon as may seem to him advisable.

Cumulative supplement.

"Immediately following each regular session of the legislative assembly, he shall cause to be printed a cumulative supplement to the most recent edition of the complete school laws, containing all amendments to school laws and new school laws enacted by the legislative assembly since the printing of the most recent edition of the complete school laws. Such supplement shall contain such notes and decisions as may seem to him advisable. No supplement shall be printed in any year when the complete school laws are printed.

Copies to be furnished.

"*He* shall furnish to the school officers in the state, *and to any other persons requiring the same, copies of the school laws and supplements, at a price not to exceed the cost of preparing and distributing such laws and supplements.*"

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 4. This act shall be in full force and effect from and after the date of its passage and approval. Effective immediately.

Approved February 25, 1961.

CHAPTER 65

An Act to Amend Section 40-3831, Revised Codes of Montana, 1947, as Enacted by Chapter 286, Session Laws of 1959, Relating to Nonforfeiture Provisions in Life Insurance Policies; Providing for an Effective Date for This Act; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 40-3831 of the Revised Codes of Montana, 1947, as enacted by chapter 286, Montana session laws of 1959, be, and the same is hereby amended to read as follows: Amending clause.

"40-3831. **Standard nonforfeiture law — Life insurance.** (1) This section shall be known as the standard nonforfeiture law. Standard nonforfeiture law.

"(2) Nonforfeiture provisions—life: In the case of policies issued on or after the operative date of this section as defined in subsection (11) of this section, no policy of life insurance, except as set forth in subsection (10) of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder: Nonforfeiture provisions—life insurance.

"(a) That in the event of default in any premium payment, after premiums have been paid for at least one full year, the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date of such value as may be hereinafter specified. In event of default.

"(b) That upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance, and five Upon surrender.

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(5) full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

Election of option.

"(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

Paid-up policy.

"(d) That if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance, or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

Statement of tables.

"(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

Statement of cash surrender value and paid-up benefits.

"(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of

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the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Reservation of rights.

"(3) Any of the provisions or portions thereof set forth in subdivisions (a) through (f) of the foregoing subsection (2) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy.

Computation of cash surrender value.

"(4) Cash surrender value—life: Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (2) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

Value of adjusted premiums.

"(a) The then present value of the adjusted premiums as defined in subsections (6), *(7), (7-a), (8) and (8-a)* of this section, corresponding to premiums which would have fallen due on and after such anniversary, and

Policy indebtedness.

"(b) The amount of any indebtedness to the insurer on account of or secured by the policy. Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments, or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

Paid-up nonforfeiture benefit.

"(5) Paid-up nonforfeiture benefit—life: Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as

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of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the conditions that premiums shall have been paid for at least a specified period.

Calculation of adjusted premium.

"(6) The adjusted premium—life: *Except as provided in subsection (7-a),* the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

"(a) The then present value of the future guaranteed benefits provided for by the policy;

"(b) Two per cent (2%) of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy;

"(c) Forty per cent (40%) of the adjusted premium for the first policy year;

"(d) Twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less, provided, however, that in applying the percentages specified in subdivisions (c) and (d) above, no adjusted premiums shall be deemed to exceed four per cent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purposes of this subsection shall be the date as of which the rated age of the insured is determined.

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Amount of insurance deemed uniform.

"(7) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of the preceding subsection (6) shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten, (10) the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten (10).

Term insurance—adjusted premiums.

"(7-a) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (i) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (ii) the adjusted premiums for such term insurance, the foregoing items (i) and (ii) being calculated separately and as specified in subsections (6) and (7) except that, for the purposes of (b), (c), and (d) of subsection (6), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (ii) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (i).

"(8) *Except as otherwise provided in subsection (8-a),* all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioner's 1941 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated, at the option of the insurer with approval of the commissioner, according to an age younger than the actual age of the insured. Such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall

Calculation—female risks.

Use of 1941 standard mortality table.

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be made on the basis of the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty per cent (130%) of the rates of mortality according to such applicable table, provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

Use of 1958 standard mortality table.

"(8-a) In the case of ordinary policies issued on or after the operative date of this subsection (8-a) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1958 standard ordinary mortality table and the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1958 extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

Notice of election by insurer—operative date.

"After the effective date of this subsection (8-a), any insurer may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January first, nineteen hundred and sixty-six. After the filing of such notice, then upon such specified date (which shall be the operative date of this subsection for such insurer), this subsection shall become operative with respect to the ordi-

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nary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January first, nineteen hundred and sixty-six.

"(9) Calculation of values—life: Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (4), (5), (6), (7), *(7-a),* (8) *and (8-a)* of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (4) of this section, additional benefits payable:

"(a) In the event of death or dismemberment by accident or accidental means,

"(b) In the event of total and permanent disability,

"(c) As reversionary annuity or deferred reversionary annuity benefits,

"(d) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply,

"(e) *As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, and* Term insurance—children.

"(f) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits,

"Shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

"(10) Exceptions. This section shall not apply to any Exceptions.

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reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen (15) years or less expiring before age 66 for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection (6), (7), *(7-a),* (8) *and (8-a)* of this section is less than the adjusted premium so calculated on a policy issued at the same age and for the same initial amount of insurance for a term defined as follows: For ages at issue fifty (50) and under, the term shall be fifteen (15) years; thereafter, the term shall decrease one (1) year for each year of age beyond fifty (50).

Effective operative date.

"(11) Operative date. After the effective date of the act by which this section was originally enacted, any insurer could have filed with the state auditor a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1948, with respect to the policies specified in the notice. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer with respect to such policies), this section shall have become operative with respect to the policies specified in such notice thereafter issued by such insurer. As to all of its policies and contracts with respect to which an insurer makes no such election, the operative date of this section with respect to such policies and contracts for such insurer is January 1, 1948."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1961.

Section 3. This act shall be in full force and effect from and after July 1, 1961.

Approved February 25, 1961.

CHAPTER 66

An Act to Amend Section 16-2618 of the Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 50 of the Laws of Montana of 1957, Relating to Deposit of Public Funds by County, City and Town

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Treasurers, and Providing for the Substitution of Securities Pledged for the Security of Such Deposits.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-2618 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Duty to deposit public funds—county, city and town treasurers.

"16-2618. (4767) **Deposit of public funds by county, city and town treasurers.** (1) It shall be the duty of all county, city and town treasurers to deposit all public moneys in their possession and under their control in any solvent bank or banks located in the county, city or town of which such treasurer is an officer, subject to national supervision or state examination as the board of county commissioners in the case of a county, or of the council in the case of a city or town, may designate, and no other. The treasurer shall take from such bank such security as the board of county commissioners, in the case of a county, or the council, in the case of a city or town, may prescribe, approve and deem fully sufficient and necessary to insure the safety and prompt payment of all such deposits, together with the interest on any time or savings deposits, provided that said board of county commissioners or city or town council is hereby authorized to deposit such public moneys not necessary for immediate use by such county, city or town with any bank authorized herein above in a time deposit as evidenced by certificates of deposit or deposits, which by agreement may not be withdrawn on less than thirty (30) days' notice by the said board of county commissioners, or city or town council; and provided that said board of county commissioners, or city or town council is hereby authorized to invest such public moneys not necessary for immediate use by such county, city or town, in direct obligations of the United States government, payable within not to exceed one hundred eighty (180) days from the time of such investment.

Security for payment.

Provision for time deposit.

Authority to invest.

Security for portion not guaranteed or insured.

"(2) Said board of county commissioners, city or town council may require security for only such portion of deposits as is not guaranteed or insured according to law. Such securities shall consist of bonds of some surety

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company authorized to do business in the State of Montana, or bonds guaranteed by such companies directly or indirectly, bonds and securities of the United States government and its dependents, bonds and warrants of the State of Montana or of any county, city, town or school district of Montana, Federal Land Bank bonds, bonds of other states and counties of other states, bonds of the Dominion of Canada, and Canadian Provinces, and other Canadian bonds guaranteed by the Canadian government or provinces thereof, personal bonds, as hereinafter provided, when accompanied by a sworn statement of the resources and liabilities of each of the sureties thereon, which shall be attached and made a part of the bond and bonds issued in the United States of America, which are quoted on the New York market, which shall be "acceptable at not to exceed ninety per centum (90%) of such market quotation.

Securities placed in trust.

"(3) When negotiable securities are furnished, such securities may be placed in trust and the trustee's receipt may be accepted in lieu of the actual securities when such receipt is in favor of the treasurer, his successors and the State of Montana, and the form of receipt and the trustee have been approved by the state examiner. All warrants or other negotiable securities must be properly assigned or endorsed in blank. It shall be the duty of the board of county commissioners in the case of county funds, or the council in the case of funds of a city or town, upon the acceptance and approval of any of the above-mentioned bonds or securities, to make a complete minute entry of such acceptance and approval upon the record of their proceedings, and such bonds and securities shall be reapproved at least quarter annually thereafter.

Acceptance and approval.

Ratable distribution for deposit.

"(4) When more than one bank is available in any county, for the deposit of county funds, or in any city or town for the deposit of city or town funds, such deposits shall be distributed ratably among all of such banks qualifying therefor, substantially in proportion to the paid-in capital and surplus of each such bank willing to receive such deposits under the terms of this act, and it shall be the duty of said county, city or town treasurer to prorate all such deposits among all of the banks qualified to receive the same as in this act provided, to the

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end that an equitable distribution of such deposits shall be maintained.

Duty of state examiner to enforce proper distribution.

"(5) Whenever it shall come to the attention of the state examiner that the funds of any county, city or town are not properly distributed as provided in this act, the state examiner shall order the treasurer of such county, city or town to distribute said funds in accordance herewith, and if such treasurer shall refuse or neglect to comply with such order, it shall be the duty of the state examiner to institute proceedings against such treasurer at the cost of the county, city or town of which such treasurer is an officer, on the official bond of such treasurer. If no such bank exists in the county, city or town, or if any bank or banks existing therein fails or refuses to qualify under the terms of this act to receive such deposits, then and in such case, or in either of such cases, such moneys as have not been accepted by any bank or banks within said county, city or town, shall be deposited under the terms of this act, in the bank or banks most convenient to such county, city or town, willing to accept such deposits under the terms of this act, and qualified as above provided. Any bank or banks receiving such deposits, shall, through its president and cashier, make a statement quarter annually of account, under oath, showing all such moneys that have been deposited with such bank during the quarter, the amount of daily balance in dollars, and the amount of interest by such bank or banks credited or paid therefor, and showing that neither such bank nor any officer thereof, nor any person for it, has paid or given any consideration or emolument whatsoever to the treasurer or to any other person other than the interest provided for herein, for or on account of the making of such deposits, with any such bank. All such deposits shall be subject to withdrawal by the treasurer in such amounts as may be necessary from time to time, and no deposit of funds shall be made, or permitted to remain in any bank, until the security for such deposits shall have been first approved by the board of county commissioners in the case of county funds, or by the council in the case of city or town funds, and delivered to the treasurer.

Quarterly statement of depositary bank.

Approval of security.

Credit of interest.

"(6) All interest paid and collected on such deposits or investments shall be credited to the general fund of the county, city or town to whose credit such funds are

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deposited. Where moneys shall have been deposited in accordance with the provisions of this act, the treasurer shall not be liable for loss on account of any such deposit that may occur through damage by the elements or for any other cause or reason occasioned through means other than his own neglect, fraud, or dishonorable conduct.

Personal bonds.

"(7) No personal bond shall be accepted except when such bond is for the purpose of renewing a personal bond now in effect, and from and after December 31, 1930, personal bonds shall not be considered as acceptable security; provided, further, that from and after the passage *and approval* of this act, no new or additional deposit accounts shall be opened by any treasurer under any personal bond."

Substitution of security—approval.

"(8) Any bank pledging securities as provided in this act at any time it deems it advisable or desirable may substitute securities for all or any part of the securities pledged. The collateral so substituted shall be approved by the governing body of the county, city or town at its

Required value.

next official meeting. Such security so substituted shall at the time of substitution have a market value sufficient together with the market value of the original securities for which no substitution is made to equal or exceed one hundred ten dollars ($110.00) for every one hundred

Trust receipt.

dollars ($100.00) of public deposits. In the event that the securities so substituted are held in trust, the trustee shall, on the same day the substitution is made, forward by registered or certified mail to the county, city or town and to the depository bank, a receipt specifically describing and identifying both the securities so substituted and those released and returned to the depository bank."

Approved February 25, 1961.

CHAPTER 67

An Act to Amend Section 52-305 and Section 52-306 of the Revised Codes of Montana, 1947, Relating to Duration of Liens of Chattel Mortgages, Providing for Extending the Time of the Duration of the Liens of Chattel Mortgages, and Relating to the Renewal of Chattel

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Mortgages by Affidavit; Providing That Existing Chattel Mortgages of Record Shall Not be Affected by This Act; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 52-305 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duration of liens—personal property, two years and sixty days from due date of debt or obligation.

"52-305. (8279) **Duration of liens.** Every mortgage of personal property, made, acknowledged, and filed, as provided by the laws of this state, is thereupon, if made in good faith, good and valid as against the creditors of the mortgagor, or subsequent purchaser, or encumbrancers, from the time it is so filed, and for the period of two years and sixty days *from and after the due date of the debt or obligation thereby secured.* A mortgage of personal property, executed and filed as hereinbefore provided, ceases to be valid as against creditors of the mortgagor or subsequent purchaser or encumbrancer in good faith, after the expiration of two years and sixty days from the *due date of the debt or obligation secured thereby,* except as hereinafter provided."

Amending clause.

Section 2. That section 52-306 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Renewal of mortgages—personal property, time and procedure.

"52-306. (8280) **Renewal of mortgages — Affidavit.** Every mortgage of personal property, executed and filed as provided by the laws of this state, may be renewed at any time within sixty days after the expiration of two years from the *due* date of *such debt or obligation,* in case such debt or obligation, or any part thereof, be unpaid or unfulfilled, by the filing of an affidavit showing the date of such mortgage, *the due date of the debt or obligation,* the names of the mortgagor and mortgagee, the date of filing the same, and the amount of the debt justly owing at the date of the making of such affidavit, or the condition of the obligation then unfulfilled, and that such mortgage was neither made nor renewed to hinder, delay, or defraud creditors or subsequent mortgagees of the said mortgagor, which affidavit must be subscribed and sworn to by the mortgagee or his assignee, or other successor in interest; or if more than one mortgagee, assignee, or successor in interest, such affidavit may be made by

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one of them on behalf of all. The affidavit may be made by the *mortgagee, his* agent or attorney or other representative of the mortgagee or his assignee, or of his successor in interest. The affidavit may be made in behalf of the corporation by the president, vice-president, secretary, assistant secretary, cashier, or general manager, and in case no such officer is within the county where the mortgage is filed, then by the agent, attorney, or other representative of such corporation; provided, that nothing shall be so construed as to prevent the mortgagee or his assignee or successor in interest or one of them, where there are more than one, from making such affidavit wherever he may, whether in or out of the county where the mortgage is filed, so long as said affidavit is filed as hereinbefore specified. The affidavit must be filed in the office where the mortgage therein described is filed, and thereupon the county clerk of such county, *the registrar of motor vehicles, or the Montana Livestock commission, as the case may be,* must attach such affidavit to the mortgage therein described, and note the date of filing thereof opposite the entry of the mortgage therein described in the book provided by law for the entry of chattel mortgages, and the original mortgage shall then continue in full force and effect for the period of three years from the date of filing said affidavit."

Affidavit must be filed.

Not retroactive.

"Section 3. *Nothing in this act shall be construed as affecting existing chattel mortgages of record."*

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1961.

CHAPTER 68

An Act to Amend Section 75-3308, Revised Codes of Montana, 1947, Relating to Standards and Regulations for School Busses and School Bus Drivers; Containing a Repealing Clause and Fixing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3308, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

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State board of education shall regulate design and operation of school busses.

"75-3308. **Authority for regulating design, construction and operation of school busses.** (1) That the state board of education, by and with the advice of the supervisor of the Montana highway patrol and the superintendent of public instruction, shall adopt and enforce regulations not inconsistent with the motor vehicle code and the minimum standards for school busses, adopted by the national commission on safety education to govern the design, construction and operation of all school busses used for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this state and such regulations shall by reference be made a part of any such contract with a school district.

Scope.

"(2) Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to such regulations.

Driver requirements.

"(3) These regulations shall include provisions that no person shall drive or operate, or be employed or permitted to drive or operate, any school bus who has not received and filed with the county superintendent of schools a certificate from the board of trustees of the school district for which the school bus is to be driven or operated, certifying the following:

"a. That he is at least *twenty-one (21)* years of age.

"b. That he is of good moral character.

"c. That he is the holder of a chauffeur's license.

"d. That he has filed with the board of trustees a satisfactory physical examination signed by a licensed physician in the State of Montana on a blank provided by the state board of education.

"Approved school bus" defined.

"(4). The term 'approved school bus' shall mean every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated and under contract for transportation of children to or from school.

School bus must be visibly marked.

"5. Every approved school bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words 'school bus' in letters not less than eight (8) inches

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in height. When a school bus is being operated upon a highway for purposes other than actual transportation of children either to or from school or for school functions, all markings thereon indicating 'school bus' shall be covered or concealed.

Board to regulate lighting equipment of school busses.

"(6) The Montana state board of education is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school busses, consistent with the provisions of this act, but supplemental thereto; except that such standards and specifications may designate and permit the use of flashing warning lights on school busses for the purpose of indicating when children are boarding or alighting from any said bus. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the society of automotive engineers.

"It shall be unlawful to operate any flashing warning signal light on any school bus except when any said school bus is stopped on a highway for the purpose of permitting school children to board or alight from said school bus."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved February 25, 1961.

CHAPTER 69

An Act to Amend Section 26-321 of the Revised Codes of Montana, 1947; as Amended by Section 1, Chapter 132, Laws of 1955; Relating to Closed and Open Season for Furbearing Animals, to Delete Fox and Add Canada Lynx and Black-footed Ferret.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-321 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 132, Laws of 1955, be amended to read as follows:

"Section 26-321. **Closed and open season for furbear-**

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ing animals. It shall hereafter be unlawful and a misdemeanor for any person to shoot, trap, kill, or capture, or cause to be shot, trapped, killed, or captured, or attempt to shoot, trap, kill, or capture any marten or sable, otter, mink, muskrat, beaver, fisher, *Canada lynx or black-footed ferret* until such time as the commission shall provide an open season on any marten or sable, otter, mink, muskrat, beaver, fisher, *Canada lynx or black-footed ferret;* provided, however, that when it is shown that muskrats or beaver are doing severe injury upon, or are a menace to the structures, canal banks or other works of an irrigation project or district, or stock water pond, any employee or resident landowner on such project or district may kill or trap or cause to be killed or trapped any muskrat or beaver upon or in menacing proximity to the structures, canal banks or other works of such project or district or stock water pond during the closed season on muskrats or beaver, after having secured from the state fish and game director a permit so to do, except that from June first to August thirty-first, both dates inclusive, of each year, no such permit shall be required. The furs and hides of such animals, legally taken during the open season, may be possessed, bought and sold at any time except as hereinafter provided.

Closed and open season—furbearing animals.

Special permit where animal causing damage.

"Any person trapping marten during the open season thereon shall present all skins or pelts of marten so taken to the game warden residing in the district where the pelts were taken, and shall furnish an affidavit, giving his name, residence, license number, the date and place of capture, and the number of marten so taken, and if the warden is satisfied of the legal taking of the same, he shall attach a numbered metal tag to each skin covered by the affidavit; no charge shall be made for tags and the pelts so tagged may be bought, sold or transported at any time within the State of Montana, but no marten skin shall be exported in any manner from the state without the shipper first obtaining a shipping permit from the state fish and game director, or game warden, the application for which shall show the number on the metal tags attached to said marten skins.

Requirements for trapping marten in state.

"Any person who shall receive or bring into from without the state any marten skin or skins with a numbered metal tag of another state or untagged marten skins

Requirements for importing marten skins.

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coming from without the state where the state in which the marten skins were caught does not require that metal tags be attached before shipment, shall report their arrival within ten (10) days to the state fish and game director and furnish an affidavit setting forth the number of skins, the date of receipt, the name and address of the person from whom procured, the manner or method of transportation into the state, and the numbers designated from the tags, and the name of the state so tagging the same, and it shall not be necessary for such skins to be retagged with a Montana tag nor any other fees paid therefor.

Penalties for violation.

"It shall be a misdemeanor, punishable as hereinafter provided, for any person to remove any tag from such skins or to buy, sell or transport untagged marten skins, except as provided in this act, or fail to have tags attached to marten skins as herein provided within twenty (20) days of the expiration date of the open season thereon.

"It shall be unlawful and punishable, as in this act hereinafter provided, for any person at any time to wilfully destroy, open or leave open, or partially destroy a house of any muskrat or beaver except that this shall not prohibit trapping in the house of muskrats when the commission shall authorize such trapping.

"Any person trapping furbearing animals or predatory animals for their pelts shall fasten a metal tag to all such traps bearing in legible English the name and address of the trapper, except that no tag shall be required on traps used by landowners trapping with permit on their own land, and irrigation ditch right-of-way contiguous to the land.

Misdemeanor.

"Any person violating any of the provisions hereof shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law."

Approved February 25, 1961.

CHAPTER 70

An Act to Amend Section 31-153, Revised Codes of Montana, 1947, Relating to Unlawful Uses of Licenses; De-

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leting the Word "Fraudulently" From Subsection One (1) of This Section; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-153, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Unlawful use of driver licenses.

"31-153. **Unlawful use of license.** It is a misdemeanor for any person:

"1. To display or cause or permit to be displayed or have in his possession any cancelled, revoked, suspended, fictitious, or altered operator's or chauffeur's license;

"2. To lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another;

"3. To display or represent as one's own any operator's or chauffeur's license not issued to him;

"4. To fail or refuse to surrender to the board upon its lawful demand any operator's or chauffeur's license which has been suspended, revoked or cancelled;

"5. To use a false or fictitious name in any application for an operator's or chauffeur's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

"6. To permit any unlawful use of an operator's or chauffeur's license issued to him; or

"7. To do any act forbidden or fail to perform any act required by this act."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1961.

CHAPTER 71

An Act to Provide for Applications for Marriage License; Providing That No Marriage License Shall be Issued for at Least Five (5) Days After the Application is

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Filed; Providing That Any District Judge May Upon Satisfactory Evidence Shorten the Time; Providing That Such Application for Marriage License Must be Subscribed and Sworn to by the Parties; and the Contents of Such Application and for the Issuance of the Marriage License, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Application for marriage license.

Section 1. **Application for license.** An application for a marriage license shall be filed at least five (5) days before a license shall be issued; provided, that, upon application of either of the parties to a proposed marriage, any judge of a district court may, upon satisfactory evidence being presented to him that either of the parties to the proposed marriage is dangerously ill, such illness being likely to result in death, or upon the request of the parents or guardian, if any, or upon any other circumstance which, in the opinion of the judge of the district court, warrants special dispensation may by order authorize the license to be issued at any time before the expiration of the said five (5) days. Such order shall be delivered to the clerk of the district court issuing the license and by him retained as prima facie evidence of his authority to issue the said marriage license within the five (5) day period.

Identification and qualification of parties.

Section 2. **Identification of the parties; statements of qualifications:** No marriage license shall issue unless the application therefor is subscribed by the parties intending to intermarry and is filed with the clerk of the district court which issues the license. Each party shall be identified and shall swear to the application before the clerk who is to issue the license, or the clerk of court where the party resides. The application shall contain a statement under oath that the contemplated marriage will be lawful, and giving the date the marriage is to take place, the name of the parties, their relationship, age, nationality, color, residence and occupation, and the names of their parents and guardians, and any prior marriage of either party, and the manner of dissolution thereof, and any other information which may be required by the provisions of section 48-119, Revised Codes of Montana, 1947.

If there be no legal objection to said application for li-

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cense within five (5) days of the application, the clerk of the district court shall issue a marriage license.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby expressly repealed.

Approved February 25, 1961.

CHAPTER 72

An Act to Amend Section 3, Chapter 267, Laws of 1955, as Amended by Section 1, Chapter 106, Laws of 1959, Compiled as Section 26-202.3 of the Revised Codes of Montana, 1947; Relating to the Definition of Resident for the Purpose of Issuing Resident Fishing and Hunting Licenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 3, Chapter 267, Laws of 1955, as amended by section 1, chapter 106, Laws of 1959, compiled as Section 26-202.3 of the Revised Codes of Montana, 1947, be amended to read as follows:

Resident fishing and hunting licenses.

"Section 26-202.3 **Defining resident.** That in determining a resident for the purpose of issuing resident fishing and hunting licenses, the following provisions shall apply:

Members of armed forces.

"(1) That members of the armed forces of the United States *or members of the armed forces of foreign governments attached to the armed forces of the United States,* who are assigned to duty in Montana, *and members of their immediate families,* and after a period of thirty (30) days within Montana, upon presenting assignment orders emanating from the proper unit commander, shall be considered residents for the purpose of this act. The thirty (30) day residence requirement is waived in time of war.

Citizens—six months residence in Montana.

"(2) Any citizen of the United States of America who has continuously resided within the State of Montana for a period of six (6) months immediately prior to making application for said license, and who is a legal resident of the state, shall be eligible to receive a resident hunting or fishing license.

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First citizenship papers.

"(3) Any person in possession of first citizenship papers only shall not be considered a resident citizen of Montana, but such a person may purchase nonresident licenses."

Approved February 25, 1961.

CHAPTER 73

An Act to Amend Sections 76-101, 76-103 and 76-105, Revised Codes of Montana, 1947, to Provide for Changing the Name of the Soil Conservation Districts to Soil and Water Conservation Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 76-101, Revised Codes of Montana, 1947, is amended to read as follows:

State soil and water conservation districts law.

"76-101. **Short title.** This act may be known and cited as 'the state soil *and water* conservation districts law'."

Amending clause.

Section 2. Section 76-103, Revised Codes of Montana, 1947, is amended to read as follows:

"76-103. **Definitions.** Wherever used or referred to in this act, unless a different meaning clearly appears from the context:

"District" or "soil and water conservation district."

"(1) 'District' or 'soil *and water* conservation district' means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth;

"Supervisor."

"(2) 'Supervisor' means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act;

"Committee" or "state soil conservation committee."

"(3) 'Committee' or 'state soil conservation committee' means the agency created in section 76-104;

"Petition."

"(4) 'Petition' means a petition filed under the provisions of subsection A of section 76-105 for the creation of a district;

"Nominating petition."

"(5) 'Nominating petition' means a petition filed under the provisions of section 76-106 to nominate candi-

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dates for the office of supervisor of a soil conservation district;

"(6) 'State' means the State of Montana; "State."

"(7) 'Agency of this state' includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state; "Agency of this state."

"(8) 'United States' or 'agencies of the United States' includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America; "United States" or "agencies of the United States."

"(9) 'Government' or 'governmental' includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise of either of them; "Government" or "governmental."

"(10) 'Land occupier' or 'occupier of land' includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as owner, lessee, renter, tenant, or otherwise; "Land occupier" or "occupier of land."

"(11) 'Due notice' means notice published at least twice, with an interval of at least fourteen (14) days between the two publication dates, in a newspaper or other publication of general circulation within the proposed area, or by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates." "Due notice."

Section 3. Section 76-105, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"76-105. **Creation of Soil Conservation Districts.** A. Any ten (10) occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil conservation com- Creation of district. Petition.

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mittee asking that a soil *and water* conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

"(1) The proposed name of said district;

"(2) That there is need, in the interest of the public health, safety, and welfare, for a soil *and water* conservation district to function in the territory described in the petition;

"(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;

"(4) A request that the state soil conservation committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil *and water* conservation district in such territory; and that the committee determine that such a district be created.

"Where more than one petition is filed covering parts of the same territory, the state soil conservation committee may consolidate all or any *part* of such petitions.

Notice and hearing.

"B. Within thirty (30) days after such a petition has been filed with the state soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area

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considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety and welfare, for a soil *and water* conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determinations and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative determination set forth in section 76-102. The territory to be included within such boundaries need not be contiguous. If the committee shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil *and water* conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearing held and determinations made thereon.

Determination of need.

"C. After the committee has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil *and water* conservation districts in this act is administratively practicable and

Determination of feasibility.

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feasible. To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words 'For creation of a soil *and water* conservation district of the lands below described and lying in the county (ies) of ....., ..., and .....' 'Against creation of a soil *and water* conservation district of the lands below described and lying in the county(ies) of..... and.....' shall appear, with a square before each proposition and a direction to insert an 'X' mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the committee. All occupiers of lands lying within the boundaries of the territory, as determined by the state soil conservation committee, shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote.

Referendum in proposed district.

Eligibility to vote.

Committee to regulate hearings.

"D. The committee shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

Result of referendum published.

"E. The committee shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the commit-

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tee shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of such districts is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in section 76-102; provided, however, that the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least sixty-five (65) per cent of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

Organization.

Limitation on authority of committee.

"F. If the committee shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appiont two (2) supervisors to act with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

Committee shall appoint two supervisors.

Procedure on application to secretary of state.

"The two (2) appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals): (1) That a petition for the creation of the district was filed with the state soil conservation committee pursuant to the provisions of this act, and that the proceedings specified in

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this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this act; and that the committee has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal offices of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the state soil conservation committee, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil *and water* conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed sixty-five (65) per cent of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible; the said statement shall set forth the boundaries of the district as they have been defined by the committee.

Secretary of state to examine and record.

"The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil *and water* conservation district of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil *and water* con-

Identity of name.

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servation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state soil conservation committee, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors without cost a certificate, under the seal of the state, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the state soil conservation committee as aforesaid, but in no event shall they include any area included within the boundaries of another soil *and water* conservation district organized under the provisions of this act.

Certificate to issue.

"G. After six (6) months shall have expired from the date of entry of a determination by the state soil conservation committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid and action taken thereon in accordance with the provisions of this act.

Subsequent petitions.

"H. Petitions for including additional territory within an existing district may be filed with the state soil conservation committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of land occupiers in the area proposed for inclusion shall be less than ten (10), the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

Petition for including additional territory.

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District deemed established.

"I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate, duly certified by the secretary of state, shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof."

Certificate as evidence.

Approved February 25, 1961.

CHAPTER 74

An Act to Authorize the Public Service Commission of Montana to Regulate and Supervise the Issuance of Securities by Public Utilities Furnishing Electric or Gas Service in Montana; to Specify the Purposes for Which Such Securities May be Issued; to Provide for Notice of and Hearing Upon Applications for the Issuance of Such Securities; to Specify the Grounds Upon Which Such Applications May be Denied; Providing for the Prompt Disposition of Such Applications; Specifying What Securities May be Issued Without Order of the Commission; Providing That Securities Issued After the Effective Date of This Act Without Approval of the Commission Shall be Void; Providing That Nothing in This Act Shall be Construed to Imply Any Guarantee or Obligation on the Part of the State of Montana in Respect of Any Such Securities and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Public service commission to regulate public utility.

Section 1. The right of every public utility, as defined in Section 70-103 of the Revised Codes of Montana of 1947, furnishing electric or gas service in the State of Montana, to issue, assume or guarantee securities and to create liens on its property situated within the State of Montana, is hereby subjected to the regulation and supervision of the Public Service Commission of Montana, as hereinafter in this act set forth. Such public utility when authorized by order of the commission and not otherwise, may issue

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stocks and stock certificates and may issue, assume or guarantee other securities payable at periods of more than twelve (12) months after the date thereof, for the following purposes:

For the acquisition of property; for the construction, completion, extension or improvement of its facilities; for the improvement or maintenance of its service; for the discharge or lawful refunding of its obligations; for the reimbursement of monies actually expended for said purposes from income or from other monies; or for any other purpose approved by the commisison.

Public utility shall petition for approval.

Section 2. Such public utility, shall, by written petition, filed with the commission and setting forth the pertinent facts involved, make application to the commission for an order authorizing the proposed issue, assumption or guarantee of securities, and the application of the proceeds therefrom for the purposes specified. The commission shall, after such hearing and upon such notice as the commission may prescribe, enter its written order approving the petition and authorizing the proposed securities transactions, unless the commission shall find: That such transactions are inconsistent with the public interest; or that the purpose or purposes thereof are not permitted by this act; or that the aggregate amount of the securities outstanding and proposed to be outstanding would exceed the fair value of the properties and business of the public utility.

Limitation of time on notes or drafts issued by public utility.

Section 3. Such public utility may issue notes or drafts maturing not more than one (1) year after the date of such issue, renewal or assumption of liability, and aggregating (together with all other then outstanding notes and drafts of a maturity of one (1) year or less on which such public utility is primarily or secondarily liable) not more than 5 per centum of the par value of the other securities of the public utility then outstanding, without application to or order of the commission. In the case of securities having no par value, the par value for the purpose of this subsection shall be the fair market value as of the date of issuance of such notes or drafts.

Commission to dispose of applications within 30 days.

Section 4. All applications to the commission hereunder shall be disposed of promptly, and in any event within thirty (30) days after petition is filed with the commis-

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sion unless, for good cause, it is necessary to continue consideration thereof for a longer period. Whenever such application is continued beyond said thirty (30) day period the commission shall enter its order effecting such continuance and stating fully therein the facts requiring continuance for a designated period of time.

Securities void without approval.

Section 5. Except as provided in section 3 of this act, all securities issued, assumed or guaranteed after the effective date of this act without approval by the commission, as provided herein, shall be void.

State not obligated.

Section 6. No provision of this act, or any act or deed done or performed in connection therewith shall be construed to obligate the State of Montana to pay or guarantee in any manner whatsoever any security authorized, issued, assumed or guaranteed under the provisions of this act.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1961.

CHAPTER 75

An Act to Repeal Section 75-3721, Revised Codes of Montana, 1947, Relating to Statement of Teaching Positions Made by the County Superintendent of Schools to the State Treasurer.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That Section 75-3721 of the Revised Codes of Montana, 1947, be, and the same is hereby repealed.

Approved February 27, 1961.

CHAPTER 76

An Act Relating to Officers and Elections in Cities and Towns; Providing That the Period of Residence in an Area Annexed to a City or Town Shall be Counted When Determining Whether a Person is Qualified to

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Vote in an Election or Hold Office in Such City or Town, by Amending Sections 11-710, 11-713, 11-714, 11-715 and 11-716, Revised Codes of Montana, 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-710, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"11-710 (5004) **Qualification of mayor.** No person shall be eligible to the office of mayor unless he shall be at least twenty-five *(25)* years old and a taxpaying freeholder within the limits of the city *or town,* and a resident of the state for at least three years, and a resident of the city *or town or an area which has been annexed by the city or town* for which he may be elected mayor two years next preceding his election to said office, and shall reside in the city or town for which he shall be elected mayor during his term of office." Qualification of mayor.

Section 2. Section 11-713, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"11-713. (5007) **Who eligible.** No person is eligible to any municipal office, elective or appointive, who is not a citizen of the United States, and who has not resided in the town or city *or an area which has been annexed by such town or city* for at least two years immediately preceding his election or appointment, and is not a qualified elector thereof." Qualification of municipal officer.

Section 3. Section 11-714, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"11-714. (5008) **Qualification of alderman.** No person shall be eligible to the office of alderman unless he shall be a taxpaying freeholder within the limits of a city, and a resident of the ward so electing him, *or a resident of an area which has been annexed by the city or town and placed in a ward,* for at least one year preceding such election." Qualification of alderman.

Section 4. Section 11-715, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"11-715. (5009) **Registration of electors.** The council must provide by ordinance for the registration of electors in any city or town, and may prohibit any person Council must provide by ordinance for registration of electors.

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from voting at any election unless he has been registered; but such ordinance must not be in conflict with the general law providing for the registration of electors, and must not change the qualifications of electors except as in this title provided. *However, when an area is annexed by a city or town after the date for registration has expired, opportunity must be provided for residents of such area to register, if otherwise qualified, for all future elections.''*

Registration of residents of annexed area.

Amending clause.

Section 5. Section 11-716, Revised Codes of Montana, 1947, is amended to read as follows:

Qualifications of electors.

''11-716. (5010) **Qualifications of electors.** All qualified electors of the state who have resided in the city or town *or an area which has been annexed by such city or town* for six months and in the ward *or an area which has been annexed and placed in a ward* for thirty days next preceding the election are entitled to vote at any municipal election, *including elections involving or held under the commission form of government, commision-manager plan or other form of municipal government.''*

Effective immediately.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1961.

CHAPTER 77

An Act Relating to Aid of a Disabled Elector at an Election; Amending Section 23-1213, Revised Codes of Montana, 1947, to Require Judges Who Assist Such Elector in the Presence or Observance of a Trusted Friend of the Elector to so Certify on the Official Register, Instead of on the Ballot, in Order to Protect the Secret Ballot of the Elector.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-1213, Revised Codes of Montana, 1947, is amended to read as follows:

Election judges may aid disabled elector.

''23-1213. **Judges may aid disabled elector.** Any elector who declares to the judges of election, or when it appears to the judges of election that he cannot read or write, or that because of blindness or other physical disability he is unable to mark his ballot, but for no other

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cause, must, upon request, receive the assistance of two of the judges, who shall represent different parties, in the marking thereof, *and* said disabled elector may request that any qualified elector whom he designates to the judges, and in whom he has trust and confidence, *shall also be permitted to* aid him in the marking of his ballot, and such judges must certify on the *official register opposite name of such disabled elector* that it was so marked with their assistance, *and indicate* the name of the person *if any* of whom he requested and received assistance, and neither the judges nor, if such is the case, the person who aided him, must thereafter give information regarding the same. The judges must require such declaration of disability to be made by the elector under oath before them, and they are hereby authorized to administer the same. No elector other than the one who may, because of his inability to read or write, or of his blindness or physical disability, be unable to mark his ballot, must divulge to any one within the polling-place the name of any candidate for whom he intends to vote, or, other than herein specifically allowed, ask or receive the assistance of any person within the polling-place in the preparation of his ballot.

Qualified elector may aid disabled elector.

Judges must require declaration of disability under oath.

Approved February 27, 1961.

CHAPTER 78

An Act to Amend Section 89-1206, Revised Codes of Montana, 1947, Relating to County Which Board of Commissioners of an Irrigation District May Designate for Office of Board, to Provide That the Board May Designate the Office of the Board to be in a County Containing a Substantial Portion of the Lands of the Irrigation District; and to Amend Section 89-1814, Revised Codes of Montana, 1947, Relating to the Transmission of Funds of an Irrigation District Located in More Than One County, to Provide for the Transmission of Funds by the County Treasurers of Counties Where the Office of the District is Not Located to the Treasurer of the County Wherein the Office of the District is Located; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That section 89-1206, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Commissioners of irrigation district shall organize as a board.

"89-1206. (7171) **Organization of board of commissioners — Officers — Compensation — Office of board to be designated.** The commissioners shall meet within ten days after their appointment and shall organize as a board by the election of one of their number as president; they shall also elect a secretary (who may or may not be a commissioner). The compensation of the secretary and all other employees authorized under this act shall be fixed by the board.

Official place of business designated.

"The board shall also at this meeting designate the place where the office of the board shall be established and maintained and its records kept, which place shall be in the county containing *a substantial* portion of the lands in the district; and such place shall not be changed except by resolution of the board, of which notice shall be given by at least one publication in some newspaper published or of general circulation in the county wherein the office of the district is located, and by posting in at least three public places in each division of the district."

Notice of change of place.

Amending clause.

Section 2. That section 89-1814, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Transmission of funds where district comprises more than one county.

"89-1814. (7241) **Transmission of funds from other counties.** Where the lands of any district lie in more than one county, the district taxes or assessments collected in counties *in which the principal office is not located* shall be transmitted, on or before the first day of January of each year, by the county treasurer of such county to the county treasurer of the county wherein the office of the district is located."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1961.

CHAPTER 79

An Act to Repeal Section 75-3502, Revised Codes of Montana, 1947, Relating to Tax Levy for Textbooks.

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Be it enacted by the Legislative Assembly of the State of Montana: Repealing clause.

Section 1. That Section 75-3502, Revised Codes of Montana, 1947, be, and the same is hereby repealed.

Approved February 27, 1961.

CHAPTER 80

An Act to Relieve the State Board of Examiners of Certain Powers and Duties Relating to the Supervision and Control of State Expenditures by Amending Sections 82-1902, 82-1903, 82-1904, 82-1905, 82-1906, 82-1909, 82-1916, and 82-1919, Revised Codes of Montana, 1947, Relating to the Duties of the State Purchasing Agent, Section 79-602, Revised Codes of Montana, 1947, Relating to the Revolving Funds at State Institutions, Section 82-1125, Revised Codes of Montana, 1947, Relating to the Board of Examiners' Duties as Ex Officio State Furnishing Board, Section 25-508, Revised Codes of Montana, 1947, Relating to Travel of Public Employees, Section 41-1608, Revised Codes of Montana, 1947, Relating to the Annual Reports of the Commissioner of Labor and Industry, and Section 3-107, Revised Codes of Montana, 1947, Relating to the Contracting Power of the Commissioner of Agriculture; and by Repealing Sections 82-1122, 82-1123 and 82-1124, Revised Codes of Montana, 1947, Relating to the Examination of the Books of the State Auditor and State Treasurer, Sections 82-1126, 82-1127, 82-1128, 82-1129, 82-1130, 82-1140, 82-1141, 82-1142 and 82-1143, Revised Codes of Montana, 1947, Relating to the Board of Examiners' Duties as Ex Officio Board of Supplies and Furnishing Board and the Letting of Contracts for Supplies, Section 82-1145, Revised Codes of Montana, 1947, Relating to the Employment of Clerical Help by State Boards and Offices, Section 82-1146, Revised Codes of Montana, 1947, Relating to the Power of the Board of Examiners to Authorize State Boards and Offices to Contract Liability or Indebtedness in Excess of Appropriations, Section 82-1148, Revised Codes of Montana, 1947, Relating to the Compensation of Assistants in Executive State Offices, Sections 59-702, 59-703, and 59-704, Revised Codes of Montana, 1947, Relating to the Printing of

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Departmental Reports, Section 77-1003, Revised Codes of Montana, 1947, Relating to the Auditing of the Veterans Welfare Commission and Section 82-2205, Revised Codes of Montana, 1947, Relating to the Duty of the Secretary of State to Keep a Book of Supplies; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1902, Revised Codes of Montana, 1947, is amended to read as follows:

Authority and duty of state purchasing agent.

"82-1902. The state purchasing agent shall, under the restrictions of this act, have full and sole power and authority and it shall be his duty to contract for and purchase or direct and supervise the purchase and sale of all supplies of whatever nature necessary for the proper transaction of the business of each and every state department, commission, board, institution, or official. For the purpose of making such purchases and contracts the state purchasing agent shall be and is hereby made the purchasing agent of and for each and every state department, commission, board, institution and official."

Amending clause.

Section 2. Section 82-1903, Revised Codes of Montana, 1947, is amended to read as follows:

Providing warehousing.

"82-1903. The state purchasing agent shall have the power and authority to maintain warehouses and to rent or lease, or construct the same, and to issue such rules and regulations as may be necessary for the proper and economical conduct of the business of the state purchasing agent."

Amending clause.

Section 3. Section 82-1904, Revised Codes of Montana, 1947, is amended to read as follows:

Approval by state purchasing agent.

"82-1904. An estimate or requisition presented by the department, commission, board or state official in control of the appropriation or fund against which such contract or purchase is to be charged, must be approved by the state purchasing agent, and this shall be full authority for any contract and any purchase made by the state purchasing department."

Amending clause.

Section 4. Section 82-1905, Revised Codes of Montana, 1947, is amended to read as follows:

"82-1905. All valid claims on account of such contract

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and purchases negotiated by the state purchasing agent shall be audited and paid from the sums severally set aside for the use of the state purchasing department by the contract and purchase estimate or requisition."

Payment of valid claims.

Section 5. Section 82-1906, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"82-1906. The state purchasing agent shall have exclusive power to contract for all printing and to purchase, sell, or otherwise dispose of, or to authorize, regulate and control the purchase, sale or other disposition of, all materials and supplies, service, equipment, and other physical property of every kind, required by any state institution or by any department of the state government; and to purchase or cause to be purchased all needed commissary supplies, and all raw material and tools necessary for any manufacturing carried on at any of said institutions; and to sell all manufactured articles, and collect the money for the same, and generally to regulate and control all purchases by any department of the state government, or by any state institution; and also to furnish, repair, and maintain the executive residence for the governor. The state purchasing agent shall remit to the state treasurer all moneys received from the sale of property belonging to the State of Montana, said moneys to be by the treasurer credited to the general fund."

Power to contract, to purchase and to sell on behalf of state.

Section 6. Section 82-1909, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"82-1909. All stationery, printing, paper, fuel and lights used in the legislative and other departments of government, and the printing, binding and distribution of the laws, journals and department reports and other printing and binding, and repairing and furnishing the halls and rooms used for the meeting of the legislative assembly and its committees, shall be procured by the state purchasing agent as hereinafter provided."

Duty to procure supplies.

Section 7. Section 82-1916, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"82-1916. The state purchasing agent shall have exclusive power, subject to the consent and approval of the governor, to contract for all printing for any purpose used by the State of Montana in any state office, elective or ap-

Power to contract for printing except for decisions of supreme court.

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pointive or by any state board, commission, bureau, state institution or department *except the printing of the decisions of the Supreme Court as provided in section 82-2004, Revised Codes of Montana, 1947,* and shall supervise and attend to all public printing of the State of Montana in the manner in this act provided, and shall prevent duplication and unnecessary printing; all forms, blanks and documents printed for distribution to the departments of the state government or state institutions shall be serially numbered and indexed by the state purchasing agent and sample copies of each thereof permanently retained in his office; and the state purchasing agent shall from time to time furnish to the public general information as to the nature, description and official numbers of such reports as are available for public distribution.

Duty to supervise public printing.

"Unless otherwise provided by law, the state purchasing agent in letting contracts as provided in this act, for the printing, binding and publishing of all laws, journals and reports of the various offices, departments, boards, commissions and institutions of the state, shall have the power to determine the quantity, quality, style and grade of all such printing, binding and publishing.

Reports to the governor— certification and publication.

"Provided, that all reports *of any department or institution of the executive branch* for any fiscal year required by law to be published, must be submitted to the governor before November 1st, of each year, for approval, correction or modification, and when by the governor approved, as corrected or modified, must by him be certified to the state purchasing agent for publication, provided, the governor may require all such reports or any number of them, to be published in one volume, such publication to be completed on or before the tenth day of January thereafter. *Such reports shall be confined to a factual presentation to the governor and legislature of the activities of the department concerned and any recommendations of the department head and shall be 8½ x 11 inches in outside dimension and shall employ single color covers only.*

Reports confined to factual presentation.

Pamphlet form.

"And provided further, any such reports so published, in one volume may also be separately published in pamphlet form, in such number as may be directed by the governor.

"The reports shall be distributed by the department

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Distribution of copies of reports.

responsible for making the report. Such distribution shall be within the discretion of the head of the department making the report, but the following distribution shall be mandatory:

"To the governor — as many as he desires, but not less than two (2) copies of each report.

"To the secretary of state — two (2) copies of each report.

"To the legislative council — two (2) copies of each report.

"To the librarian of the state historical library — forty (40) copies of printed reports and a minimum of four (4) copies of mimeographed or carbon reports.

"The Historical Society of Montana shall distribute publications so received to the public libraries, and other educational, scientific, library or art institutions of the state, which may apply to be put on the mailing list for all or a portion of the state publications; and to such libraries and other institutions outside this state with which the Historical Society of Montana may have established exchange relations.

"The Historical Society of Montana shall transmit to the United States Library of Congress, two (2) copies of every administrative report or study.

"To the Legislative Assembly of the State of Montana — one (1) copy for each member."

Amending clause.

Section 8. Section 82-1919, Revised Codes of Montana, 1947, is amended to read as follows:

Fresh fruits and vegetables excepted.

"82-1919. Fresh fruits and vegetables (other than potatoes) shall not be included in the supplies to be purchased as hereinbefore provided. The state purchasing agent may allow any state officer, board, commission or superintendent of state institution to purchase the fresh fruits and vegetables therefor, and make other and minor purchases for the same; an itemized account to be kept of all such purchases and furnished to the state purchasing department.

Emergency purchases.

"Likewise, when immediate delivery of articles or performance of service is required by the public exigencies,

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the articles or service so required may be procured by open purchase or contract at the place and in the manner in which such articles are usually bought and sold or such services engaged between individuals, but under the direction of the state purchasing agent."

Amending clause.

Section 9. Section 79-602, Revised Codes of Montana, 1947, is amended to read as follows:

State controller may authorize contingent revolving accounts.

"79-602. The *state controller may* authorize the establishment and maintenance at any and all of the state institutions, or in any of the departments, boards, or commissions, of Montana of contingent revolving accounts, transferring in trust to the business offices of said institutions such sums of money as may appear necessary, to be used by said institutions for the payment of demands requiring immediate cash payment, under specific regulations to be established by *the state controller.* But each and every state institution granted a contingent revolving account shall report to the state *controller* monthly all transactions involving such contingent revolving accounts, with proper vouchers for every payment made therefrom. The state *controller* may cancel such authorizations and recall such funds at pleasure."

Monthly reports on accounts to state controller.

Amending clause.

Section 10. Section 82-1125, Revised Codes of Montana, 1947, is amended to read as follows:

Allocation of state office space.

"82-1125. The governor, secretary of state, and attorney general of the State of Montana are hereby constituted ex officio a furnishing board, with the *duty to allocate and furnish office space for the departments of state government.*"

Amending clause.

Section 11. Section 25-508, Revised Codes of Montana, 1947, is amended to read as follows:

Limitations on payment of expenses of public officers and employees.

"25-508. (1) Hereafter no state, county, city or school district officer or employee of the state or of any county or city, or of any school district, shall receive payment from any public funds for traveling expenses or other expenses of any sort or kind for attendance upon any convention, meeting, or other gathering of public officers save and except for attendance upon such convention, meeting or other gatherings as said officer *or employee* may by virtue of his office *find it necessary* to attend, and provided further, that the board of trustees of any county

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or district high school or of any school district may by resolution adopted by a majority of the entire board make their district a member of any state association of school districts or school district trustees, or any other strictly educational association and authorize the payment of dues to such association, and the necessary traveling expenses of an employee, or one (1) member of said board, to attend meetings of such association, or other meetings called for the express purpose of considering educational matters.

Providing for expenses of attendance—educational meetings.

"(2) Provided, further, three (3) members of the board of county commissioners may be allowed actual transportation expenses and per diem for attendance upon any general meeting of county commissioners or assessors held within the state not oftener than once a year and the proportionate expenses and charges against each county as a member of such association shall also be paid; provided also that county attorneys and sheriffs are hereby authorized to attend their respective meeting or convention held within the state and are allowed actual traveling expenses not oftener than once a year for attending same.

Providing for expenses of attendance—county officers' conventions.

"(3) Provided, further, that nothing herein shall be construed to prevent any city or town council, commission or other governing body from paying membership fees and dues in any organization of city and town officials whose purpose is improvement of laws relating to city and town government and their better and more economical administration, and the necessary expense of any regular officer or employee of such city or town in attending any convention or meeting of such organization upon the direction of such council, commission, or other governing body by order upon its minutes stating that the public interest requires such attendance; such payment of membership fees, dues and/or expense to be made from such fund of the city or town as the council, commission or other governing body shall direct by such order, upon claim presented, audited and allowed as are other claims against such city or town."

Providing for expenses of membership—municipal law improvement conventions.

Section 12. Section 41-1608, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"41-1608. The annual reports of the commissioner shall be combined in one volume and published biennially."

Publication of commissioners' report.

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Amending clause.

Section 13. Section 3-107, Revised Codes of Montana, 1947, is amended to read as follows:

Powers and duties— department of agriculture.

"3-107. The department of agriculture shall have power and it shall be its duty:

"1. To encourage and promote, in every practicable manner, the interests of agriculture, including horticulture and apiculture, domestic arts, dairying, cheese making, poultry raising, the production of wool, and all other allied industries.

"2. To collect and publish statistics relating to the production and marketing of crops and livestock, and of beef, pork, poultry, fish, mutton, wool, butter, cheese, and other agricultural products so far as such statistical information may be of value to the agricultural and allied interests of the state.

"3. To assist, encourage, and promote the organization of farmers' institutes, horticultural and agricultural societies, the holding of fairs, livestock shows, or other exhibits of the products of agriculture.

"4. To establish and promulgate standards for open and closed receptacles for farm products and standards for the grade and other classification of farm products.

"5. To cooperate with producers and consumers in devising and maintaining economical and efficient systems of distribution, and to aid in whatever way may be consistent or necessary in accomplishing the reduction of waste and expense incidental to marketing.

"6. To have authority to maintain a market news service, including information as to crops, freight rates, commission rates, and such other matters as may be of service to producers and consumers, acting as a clearing house for information between producer and consumer.

"7. To gather and diffuse timely information concerning the supply, demand, prevailing prices, and commercial movement of farm products.

"8. To investigate the practices and methods of factors, commission merchants, and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grain, dairy products, eggs, livestock, vegetables, or other farm products, to the end that the distribution of such commodi-

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ties through such factors, commission merchants, and others shall be efficiently and economically accomplished without hardship, waste or fraud.

Powers and duties— department of agriculture— continued.

"9. To cooperate with the state college of agriculture, the agricultural experiment stations and the federal government to the end that all available agencies may be employed, to the best advantage, for the betterment of the agricultural industries of the state for the improvement of country life and for promoting equality of opportunity for the farmers of the state.

"10. To ascertain, as far as possible, what conditions make for the success of a homeseeker and what conditions make for his failure, and to assist in remedying such of the conditions which make for failure as are capable of remedy. To examine or cause to be examined upon application of any land colonization company or lands proposed for colonization, and to certify his findings when conditions warrant:

"(A) That the land is suitable for agricultural purposes.

"(B) That the location of the land with reference to public roads and shipping facilities is favorable to colonization development.

"(C) That the plan of colonization in each instance is in the interest of the settlers or homeseeker.

"(D) That the terms of payment are on the amortization plan.

"(E) That satisfactory assurance has been given to the commissioner that the plan of colonization adopted will not be changed to the detriment of the homeseeker.

"11. To conduct and manage the state fair and to have custody of the state fair grounds, buildings, and other property belonging thereto.

"12. To take and hold in the name of the State of Montana property, real and personal, acquired by gifts, subscriptions, donations, and bequests.

"13. To sell and dispose of personal property owned by it in such manner as the commissioner may provide, when in the judgment of the department such sale or dis-

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posal best promotes the purposes for which the department is established.

"14. To contract in respect to any matter within the scope of its authority."

Repealing clause.

Section 14. Sections 82-1122, 82-1123, 82-1124, 82-1126, 82-1127, 82-1128, 82-1129, 82-1130, 82-1140, 82-1141, 82-1142, 82-1143, 82-1145, 82-1146, 82-1148, 59-703, 59-702, 59-704, 77-1003 and 82-2205, Revised Codes of Montana, 1947 are repealed.

Repealing clause.

Section 15. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 28, 1961.

CHAPTER 81

An Act Directing the State Examiner to Conduct an Annual Audit of the Office of State Controller and All State Institutions Including the University of Montana and Relieving the State Controller of the Duty to Conduct Quarterly Examinations of the University of Montana by Amending Sections 82-1014 and 82-1016, Revised Codes of Montana, 1947, and by Repealing Section 82-102, Revised Codes of Montana, 1947, as Enacted by Sections 1 and 3, Chapter 279, Laws of 1959.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1014, Revised Codes of Montana, 1947, as enacted by section 1, chapter 279, laws of 1959, is amended to read as follows:

State examiner to audit books of state institutions.

"82-1014. The state examiner is hereby directed to examine and audit *each fiscal year* the accounts and books of the *state soldiers' home, state hospital, state prison, state tuberculosis sanitarium, home for senile men and women, state industrial school, state training school and hospital, Montana children's center, state vocational school for girls, state school for the deaf and blind and the* various units of the university of Montana, and has authority to employ such clerical, accounting and other personnel as may be deemed necessary by him to carry out the provisions of this act. Such examination shall include, within reason,

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but not limited to, the verification of all fees collected and their disposition, *a statement of all income including federal and private grants,* the tabulation of expenditures made from each of the appropriations granted by the legislative assembly, the consideration of all claims and expenditures as to their fund allocation and validity, the analysis of the sources of funds applied to the redemption of revenue bonds outstanding, the segregation of expenses allocated to buildings and activities designated as self liquidating, and any investigation as may be requested by the *governing boards of the institutions.* Scope of examination.

"The state examiner shall also conduct an annual examination and audit of the office of state controller, ex officio state purchasing agent. Such examination shall include the verification of all fees collected and their disposition, and shall also include an examination and appraisal of the procedures followed by the purchasing division for the purchase of supplies and capital equipment for state agencies." Annual audit—office of state controller.

Section 2. Section 82-1016, Revised Codes of Montana, 1947, as enacted by section 3, chapter 279, laws of 1959, is amended to read as follows: Amending clause.

"82-1016. The state examiner shall report to the governor and the *governing boards of the various institutions,* the results of such examination and audit, *including any comments, criticism, and recommendations,* which report shall be available to the legislative council and legislative assembly." Report on audit.

Section 3. Section 82-102, Revised Codes of Montana, 1947, is repealed. Repealing clause.

Approved February 28, 1961.

CHAPTER 82

An Act to Provide That the Governor May Authorize an Expenditure During the First Fiscal Year of the Biennium From the Appropriation for the Second Fiscal Year of the Biennium if He Finds That the Amount Actually Appropriated for the First Fiscal Year of the Biennium is Insufficient Due to an Unforeseen and Unanticipated Emergency; to Amend Section 79-901, Re-

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vised Codes of Montana, 1947, by Deleting Reference to the Board of Examiners' Power to Decrease Appropriations; to Amend Section 79-904 by Deleting Reference to Section 79-902; and to Repeal Sections 79-902 and 79-903, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Governor may authorize emergency expenditures.

Section 1. A state department, institution or agency of the executive branch desiring authorization to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium, shall make application for such authorization to the governor through the director of the budget. If the governor finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year of the biennium, with all other income, will be insufficient, for the operation and maintenance of said department, institution or agency during the year for which the appropriation was made, he may, after careful study and examination of the request and upon review of the recommendation of the director of the budget, authorize an expenditure during the first fiscal year of the biennium to be made from the appropriation for the second fiscal year of the biennium. The department, institution or agency may expend the amount authorized by the governor only for the purposes specified in the authorization. The governor shall report to the next legislative assembly, in a special section of the budget, the amounts expended as a result of all such authorizations granted by him, and shall request that any necessary supplemental appropriation bills be passed.

Amending clause.

Section 2. Section 79-901, Revised Codes of Montana, 1947, is amended to read as follows:

Excess expenditures for state institutions made unlawful.

"Section 79-901. It shall be unlawful for the board of trustees, executive board, managerial staff, president, deans and faculty, or any other authority of any state institution maintained in whole or in part by the state, or for any officer, department, board, commission or bureau, having charge of the disbursement or expenditure of the income provided by legislative appropriation, or otherwise, to expend, contract for the expenditure, or to incur or permit the incurring of any obligation whatsoever, in any one year, in excess of the income provided for such year, or for the state board of examiners, or any supervis-

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ory board or authority either directly or indirectly to authorize, direct or order any such institution, officer, department, board, commission or bureau to increase any expenditures, except as *specifically* provided *by law,* and it shall be and is hereby made the duty of any and all of such institutions, officers, departments, boards, commissions and bureaus to keep such expenditures, obligations and liabilities within the amount of such income."

Amending clause.

Section 3. Section 79-904, Revised Codes of Montana, 1947, is amended to read as follows:

Penalties for violation.

"79-904. Any authority or member of a board of trustees or any person, officer or employee violating the provisions of section 79-901, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or imprisoned in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment; and in addition thereto, said authority, member, person, officer or employee, shall be personally liable, and the surety or sureties on his bond shall also be liable, to the State of Montana for the amount of the excess thus unlawfully expended, and said authority, member, person or officer shall be guilty of misfeasance in office, and such employee shall be guilty of wrong doing and each shall be subject to removal from office or from such employment, upon complaint of any taxpayer, filed in a district court of this state, and upon proof of violation of this act, in accordance with law."

Repealing clause.

Section 4. Sections 79-902 and 79-903, Revised Codes of Montana, 1947, are repealed.

Approved February 28, 1961.

CHAPTER 83

An Act to Amend Section 75-2501, Revised Codes of Montana, 1947, Relating to Examinations and Certificates; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-2501, Revised Codes of Mon-

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tana, 1947, be, and the same is hereby amended to read as follows:

Public school teacher must be citizen unless exchange teacher.

"75-2501. **Examinations and certificates — Certificates of qualification required of teachers.** (1) No certificate to teach in the public schools of Montana shall be granted to any person who is not a citizen of the United States. This requirement shall not apply to such persons who are not citizens of the United States but who are approved annually by the state board of education for employment as exchange teachers from foreign countries or who are approved annually for employment for special instruction, study or research in the public schools, the public junior colleges and the units of the university of Montana. During no school or university year may the number of persons so approved for employment by the state board of education exceed a total of one hundred (100) persons for both the public schools and the units of the university of Montana.

Age and health requirements.

"2. No person is eligible to teach in any public school in this state, or to receive a certificate to teach, who has not attained the age of eighteen (18) years and who has not secured and presented to the certification authority a satisfactory health certificate from a reputable physician.

Certificate required.

"3. No person shall be accounted a qualified teacher within the meaning of the school law who has not first secured from the certificating authority a certificate setting forth his qualifications to teach in the public schools of Montana.

Registration of certificate within ten days.

"4. All certificates before they shall be valid in any county must be registered in the office of the county superintendent of schools of such county within ten (10) days after the term of service of any teacher begins. Not more than ten (10) days' salary shall be paid any teacher for services rendered previous to the registration of such certificate."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 28, 1961.

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CHAPTER 84

An Act Authorizing and Empowering the State Board of Land Commissioners of the State of Montana to Sell and Convey a Tract of Land in the North West Quarter of the South West Quarter and South West Quarter of the North West Quarter, (NW¼ SW¼ and SW¼ NW¼), Section Twenty-two (22), Township Three (3) South, Range Six (6) West, Montana Principal Meridian, Comprising Twelve and Seventy-seven Hundredths (12.77) Acres, Madison County, to the Best Interests of the State of Montana; Providing for Metes and Bounds Descriptions of Said Land; Providing for Platting the Acreage into Lots and Blocks if Deemed Necessary to the Best Interests of the State; Providing for Appraisal of Said Land; Providing for Notice of Sale Pursuant to Section 81-909 of the Revised Codes of Montana, 1947; Providing Costs of Sale and All Expense Incidental Thereto Shall be Paid Only Out of the Proceeds of the Sale; and Providing the Net Proceeds of the Sale Shall go to the State General Fund; Providing for the Effective Date of Act and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sale of certain state land authorized.

Section 1. The state board of land commissioners of the State of Montana is hereby authorized and empowered to sell to the highest qualified bidder at public auction pursuant to section 81-909 of the Revised Codes of Montana, 1947, and convey for cash or otherwise that portion of the north west quarter of the south west quarter and south west quarter of the north west quarter (NW¼-SW¼ and SW¼NW¼) section twenty-two (22), township three (3) south, range six (6) west, Montana principal meridian, Madison county, Montana, more particularly described as follows:

Tract A—beginning at corner No. 1 of the parcel of land hereby conveyed from which point the west quarter corner of section twenty-two (22), township three (3) S. R. 6 W.M.P.M. bears S. 26° 50′ W. 470.0′ distant; thence S. 68° 16′ E. 100.0′ to cor. No. 2, thence S. 72° 01′ E. 100.0′ to Cor. No. 3, thence N. 85° 59′ E. 100.0′ to Cor. No. 4, thence N. 85° 37′ E. 100.0′ to Cor. No. 5, thence S. 77° 43′ E. 100.0′ to Cor. No. 6, thence S. 68° 28′ E. 100.0′ to Cor. No. 7, thence S. 61° 12′ E. 100.0′

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to Cor. No. 8, thence S. 62° 24′ E. 100.0′ to Cor. No. 9, thence S. 34° 39′ E. 100.0′ to Cor. No. 10, thence S. 8° 04′ E. 200.50′ to Cor. No. 11, thence S. 4° 58′ E. 100.0′ to Cor. No. 12, thence S. 19° 33′ W. 100.0′ to Cor. No. 13, thence S. 42° 53′ W. 99.0′ to Cor. No. 14, thence S. 66° 36′ W. 100.0′ to Cor. No. 15, thence S. 81° 09′ W. 100.0′ to Cor. No. 16, thence N. 42° 49′ W. 177.7′ to Cor. No. 17, thence N. 87° 04′ W. 300.0′ to Cor. No. 18, thence N. 7° 19′ W. 128.6′ to Cor. No. 19, thence N. 7° 54′ W. 100.0′ to Cor. No. 20, thence N. 5° 54′ W. 100.0′ to Cor. No. 21, thence N. 11° 54′ W. 100.0′ to Cor. No. 22, thence N. 25° 54′ W. 100.0′ to Cor. No. 23, thence N. 31° 54′ W. 100.0′ to Cor. No. 1 place of beginning, comprising 9.97 acres, more or less, of land located in the SW¼ of the NW¼ and the NW¼ of the SW¼ of Sec. 22, Twp. 3 S.R. 6 W.M.P.M. Madison county, State of Montana.

Tract B—beginning at corner No. 1 of the parcel of land hereby conveyed from which point the corner common to sections 21, 22, 27 and 28 Twp. 3 S.R. 6 W.M.P.M. bears S. 12° 15′ W. 1830.0′ distant; thence N. 59° 00′ E. 100.0′ to Cor. No. 2, thence N. 72° 45′ E. 100.0′ to Cor. No. 3, thence N. 78° 35′ E. 158.0′ to Cor. No. 4, thence N. 53° 05′ E. 129.3′ to Cor. No. 5, thence N. 12° 43′ E. 100.0′ to Cor. No. 6, thence N. 25° 17′ W. 55.0′ to Cor. No. 7, thence N. 54° 22′ W. 79.10′ to Cor. No. 8, thence S. 78° 08′ W. 80.0′ to Cor. No. 9, thence S. 63° 13′ W. 80.0′ to Cor. No. 10, thence S. 75° 02′ W. 115.0′ to Cor. No. 11, thence S. 4° 33′ E. 80.0′ to Cor. No. 12, thence S. 3° 12′ E. 220.0′ to Cor. No. 1 place of beginning, comprising 2.8 acres, more or less, of land located in the NW¼ of the SW¼ of Section 22 Twp. 3 S. R. 6 W.M.P.M. Madison county, State of Montana.

Appraisal.

Said board shall cause said land to be appraised by the chief field agent or a deputy field agent prior to such sale and said land shall not be sold for less than the appraised value.

Confirmation of sale.

Section 2. The sale herein provided shall be subject to the approval and confirmation of the state board of land commissioners and shall not be deemed completed until after such approval and confirmation. The state board of land commisisoners is authorized to reject any and all bids.

Land may be platted.

Section 3. If the state board of land commissioners

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shall determine it is for the best interest of the state for the above described land to be surveyed, platted, and laid off into blocks and lots, said board is hereby authorized and empowered to proceed in accordance with the provisions of sections 81-904 and 81-905 of the Revised Codes of Montana, 1947.

Appraised value.

Section 4. When directed by the state board of land commissioners, the commissioner of state lands shall proceed in accordance with the provisions of section 81-910 of the Revised Codes of Montana, 1947, and in addition, shall set forth the appraised value of the land to be sold, together with the statement that said land will not be sold for less than said appraised value.

Expense of sale.

Section 5. Expense of conducting the sale, publication costs and all other costs necessary and incidental to the sale, shall be paid only out of the proceeds from the sale. After all such expenses and costs are paid, the net proceeds of the sale shall be deposited with the state treasurer and credited to the state general fund.

Proceeds to general fund.

Repealing clause.

Section 6. All other acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1961.

CHAPTER 85

An Act Approving, Ratifying and Enacting Into Law the Columbia Interstate Compact Relating to the Waters of the Columbia River and Its Tributaries and for Matters Incidental Thereto Entered Into at the City of Spokane, State of Washington, on October 3, 1960, by Commissioners Representing the States of Montana, Idaho, Oregon, Washington, Nevada, Utah and Wyoming, Making the State of Montana a Party Thereto; Creating the Columbia Interstate Compact Commission; Providing for the Appointment of the Members of Such Commission From the State of Montana and for Fixing Their Terms of Office, and Salaries; Providing for the Giving of Notice of Ratification of the Compact; Providing for the Carrying Out of Said Compact and Providing an Effective Date.

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Be it enacted by the Legislative Assembly of the State of Montana:

Ratification of Columbia interstate compact.

Section 1. The Columbia interstate compact, hereinafter set forth, which was entered into at the City of Spokane, State of Washington, on October 3, 1960, by representatives from the states of Montana, Idaho, Washington, Oregon, Nevada, Utah and Wyoming, and participated in by a representative of the United States, is hereby approved, ratified, adopted, enacted into law, and entered into by the State of Montana, which compact is in full as follows:

THE COLUMBIA INTERSTATE COMPACT

ARTICLE 1—PURPOSES

Purposes of compact.

The purposes of this compact with respect to the land and water resources of the Columbia river basin are:

A. To facilitate and promote their orderly, integrated and comprehensive development, use, conservation and control for various purposes.

B. To further intergovernmental cooperation and comity with respect to these resources and the programs for their use and development by, among other things,

(1) Providing for the relationships between certain beneficial uses of water as a practicable means of effecting an equitable apportionment thereof, and for means of facilitating and effecting additional interstate agreements with respect thereto, and

(2) Providing an interstate body to consider the various common problems with respect to the use and development of these resources and to plan for, review and recommend plans for their development.

ARTICLE II—DEFINITION OF TERMS

As used in this compact:

"Columbia river system."

A. "Columbia river system" means the Columbia river and its tributaries within the United States.

"Columbia river basin."

B. "Columbia river basin" means all the drainage area of the Columbia river system within the United States.

"State," "member state."

C. "State" or "member state" means a state which has ratified and is a party to this compact.

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D. "Upstream state" means any of the states of Idaho, Montana, Nevada, Utah or Wyoming. "Upstream state."

E. "Downstream state" means either of the states of Oregon or Washington. "Downstream state."

F. "Upstream area" means all the area of the states of Idaho, Montana, Nevada, Utah and Wyoming situated within the Columbia river basin, and all those portions of the states of Oregon and Washington situated within the Columbia river basin, lying east of the summit of the Cascade mountains. "Upstream area."

G. "Beneficial consumptive use" means any use of waters, recognized as a beneficial use under the law of the member state involved, resulting in a substantial amount of the water diverted being consumed or so used as not to return to the Columbia river system. Such uses include those for domestic, livestock and municipal purposes, irrigation of land and such industrial and other beneficial uses as involve consumptive use of the water diverted. "Beneficial consumptive use."

H. "Nonconsumptive use" means any control or use of water in which, exclusive of seepage and evaporation of water incidental to its control or use, the water remains in or returns to the Columbia river system substantially undiminished in volume. Such uses include use for navigation, flood control, production of hydroelectric power, the maintenance of stream flows for pollution control, fish and wildlife and recreational purposes and such industrial and other beneficial uses as result in nonconsumptive use of the water involved. "Nonconsumptive use."

I. "Government" means, severally, the member states and the United States. "Government."

J. "Commission" means the Columbia compact commission as authorized by this compact. "Commission."

ARTICLE III—THE COLUMBIA COMPACT COMMISSION

A. There is hereby created an agency of the member states, and of each of them, to be known as the Columbia compact commission. The commission shall be composed of three (3) commissioners from each of the states of Idaho, Montana, Oregon and Washington, and, if they Commission created.

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ratify the compact, two (2) commissioners from Wyoming and one (1) each from Nevada and Utah. The commissioners of the respective states shall be designated or appointed in accordance with the laws of the state which they represent and shall serve and be subject to removal in accordance with those laws. A commissioner shall be named to represent the United States, to be designated and to serve as provided by the laws of the United States.

Voting power.

B. Each commissioner of a state shall be entitled to one (1) vote in the commission. The commissioner of the United States shall serve as chairman of the Commission but shall have no vote. In the absence of any commissioner, his vote may be cast by another commissioner of his state or by another representative designated or appointed in accordance with the laws of that state if such other commissioner or representative shall have a written proxy in such form as may be established by the rule of the commission.

Quorum—requirements.

C. The requirements as to a quorum for the transaction of business at any meeting of the commission shall be as follows:

(1) Commencing with the date the compact becomes effective as to all seven (7) states named in subdivision A of this article, the presence in person of twelve (12) or more commisisoners shall constitute a quorum for the transaction of business; such a quorum shall include at least two (2) commissioners, in person, from such of the states of Idaho, Montana, Oregon and Washington as have appointed or designated commissioners. For the duration of any called meeting of the Commission the presence of a quorum shall be determined at the commencement of such meeting.

Reconvened meeting.

Notice.

Quorum.

(2) If any duly called meeting is recessed because of a lack of a quorum initially, a reconvened meeting may be set by written notice, given in accordance with the bylaws, to all commissioners not less than ten (10) days in advance of such reconvened meeting. At such reconvened meeting, the requirements for personal attendance by two (2) commissioners from each of the states of Idaho, Montana, Oregon and Washington shall not apply, and the presence of twelve (12) or more commissioners in person or by proxy shall constitute a quorum.

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Quorum prior to complete ratification.

(3) Commencing with the date the Compact becomes effective, but before all seven (7) states have ratified, the requirements as to a quorum shall be modified as follows:

(a) If only four (4) or five (5) states have ratified, the phrase "nine (9) or more" shall be substituted for the phrase "twelve (12) or more" in subsections (1) and (2) of this section C.

(b) If only six (6) states have ratified, the phrase "Ten (10) or more" shall be substituted for the phrase "twelve (12) or more" in subsections (1) and (2) of this section C.

Requirements as to votes.

D. The requirements as to votes required to carry an action at any meeting of the commission shall be as follows:

Upon complete ratification.

(1) Commencing with the date the compact becomes effective as to all seven (7) states named in section A of this article, any action by the commission shall be effective only if it be carried by a vote of twelve (12) or more of the voting membership of the commission.

Prior to complete ratification.

(2) Commencing with the date the compact becomes effective but before all seven (7) states have ratified, the requirements as to votes necessary for commission action shall be modified as follows:

(a) If only four (4) or five (5) states have ratified, the phrase "nine (9) or more" shall be substituted for the phrase "twelve (12) or more" in subsection (1) of this section D.

(b) If only six (6) states have ratified, the phrase "tell (10) or more" shall be substituted for the phrase "twelve (12) or more" in subsection (1) of this section D.

Formal organization.

E. The commission shall meet to establish its formal organization within ninety (90) days of the effective date of this compact, such meeting to be at the call of the chairman or by a majority of the commissioners then appointed or designated. The commission shall then adopt its initial set of by-laws providing for, among other things: the adoption of a seal, the management of its internal affairs and the authority and duties of its officers. The commission shall also then elect from among its members a vice-

Election of officers.

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chairman and treasurer to serve for the first full or part annual term, these offices to be filled thereafter from among commission members by annual elections. The commission shall appoint an executive director, who shall also act as secretary, to serve at the pleasure of the commission and at such compensation and under such terms and conditions as it may fix. The executive director shall be the custodian of the records of the commission with authority to affix the commission's official seal and to attest to and certify such records or copies thereof.

Appointment of executive director.

F. The executive director, subject to the approval of the commission in such cases as its by-laws may provide, shall, without regard to the provisions of the civil service laws of any member state or of the United States, appoint and remove or discharge such engineering, legal, expert, clerical and other personnel as may be necessary for the performance of the commission's functions; may fix their compensation and define their duties; and require bonds of such of them as the commission may designate.

Executive director shall employ personnel.

G. The commission may:

Powers of commission.

(1) Borrow, accept, or contract for the services of personnel from any government, agency thereof or any intergovernmental agency.

(2) Acquire by purchase or otherwise, hold and dispose of such real and personal property as may be necessary or convenient in the performance of its functions.

(3) Establish and maintain one or more offices for the transaction of its business.

H. The commission and its executive director shall make available to the member states or the United States any information in its possession at any time and shall provide free access to its records during established office hours to duly authorized representatives of member states or the United States or to any interested person.

Information and records made available.

I. The commission shall make and transmit annually to the legislative bodies and executive head of each government, a report covering the activities of the commission for the preceding year and embodying such plans, recommendations and findings as may have been adopted by the commission. The commission may issue such additional reports as it may deem desirable.

Commission to make annual report.

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J. All meetings of the commission shall be open to the public. Meetings open to public.

ARTICLE IV—FINANCE

A. The compensation and expenses of each commissioner shall be fixed and paid by the government which he represents. All other expenses incurred by the commission in the course of exercising the powers conferred upon it by this compact shall be paid by the commission out of its own funds. Compensation and expenses.

B. The commission shall submit to the executive head or designated officer of each member state for presentation to its legislature a budget of its estimated expenditures. This budget shall contain specific recommendations of the amount to be appropriated by each of the member states. The time of submission and the fiscal period of the commission's budget shall conform as nearly as possible to the requirements of the laws of the member states. Commission to submit budget.

C. The commission shall, at the initial organizational meeting after this compact becomes effective, or as soon thereafter as is practicable, establish the initial fiscal period and shall establish the budget of expenditures for this initial period. The budget for the initial period, if it be a full biennium, shall be not less than sixty-five thousand dollars ($65,000.00). If the initial fiscal period is only a portion of a biennium, the minimum budget therefor shall be the proportion of sixty-five thousand dollars ($65,000.00) derived by applying thereto the ratio that the initial period bears to a full biennium. The respective shares of the budget for the initial fiscal period shall be as follows: Commission shall establish fiscal period and initial budget.

Member State	Percent of Budget
Idaho	23.5
Montana	23.5
Nevada	2.0
Oregon	23.5
Utah	2.0
Washington	23.5
Wyoming	2.0

If any of the states of Nevada, Utah or Wyoming fail to ratify during the initial period, the total budget for that period shall be reduced by the amount of the share Budget prior to complete ratification.

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of the state failing so to ratify, but the amounts to be paid by the other states shall remain unchanged.

Allocation among states.

D. Subsequent budgets shall be recommended by the commission and the amounts shall be allocated among the member states. The shares of Idaho, Montana, Oregon and Washington shall be equal and in no event shall the share of Wyoming exceed three per cent (3%), the share of Nevada exceed two per cent (2%) and the share of Utah exceed one per cent (1%) of the total budget for any fiscal period.

Limitation on power to incur obligations.

E. The commission shall not pledge the credit of any government except by and with the authority of the legislative body thereof given pursuant to and in keeping with the constitution of said government. The commission shall not incur any obligations prior to the availability of funds adequate to meet the same.

Commission shall keep accurate accounts.

F. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be open for examination or audit by any member state but the commission shall not be required to adopt the auditing or accounting procedures of any particular state. All receipts and disbursements of funds handled by the commission shall be audited yearly by an independent certified public accountant and the report of the audit shall be included in and become a part of the annual report of the commission.

Accounts open to inspection.

G. The accounts of the commission shall be open for public inspection during established office hours.

ARTICLE V—GENERAL POWERS

Powers authorized by majority vote.

The commission shall have power when authorized by such majority vote as provided by Article III hereof:

Report on data—Columbia river basin.

A. To collect, correlate and report on data relating to present and potential uses of water and other related resources of the Columbia river basin and relating to available sources of water for use in the Columbia river basin; conduct investigations and surveys to determine the extent of those resources and the nature of the problems involved in their present and future development and management; and recommend plans and programs for their development.

B. To undertake itself, or in cooperation with gov-

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ernments or agencies thereof or other entities, with respect to the Columbia river basin the review of all plans for the construction of works authorized or reauthorized to be undertaken after the effective date of this compact for flood control, navigation, power development, irrigation, or other water use or management which involve facilities having capacity for the diversion or use of flows of more than two hundred (200) cubic feet per second or the capacity to store at any time more than twenty-five thousand (25,000) acre-feet of water and which are proposed to be undertaken pursuant to laws of the United States, whether under permission granted by the United States, by means of financing in whole or in part by the United States, or otherwise.

Review of plans—water use and control.

C. To appear and make recommendations before appropriate governmental or intergovernmental agencies or other entities in public hearings or otherwise, in connection with any plans, projects or programs.

Recommendations.

D. To collect, correlate and publish water facts necessary for the purpose of this compact directly or in cooperation with any governmental or intergovernmental agencies or other entities.

Publication of water facts.

E. To cooperate with the International Joint Commission—United States and Canada, the appropriate agencies of Canada and the Province of British Columbia, as well as with agencies of the member states and the United States and with other entities, in studies, plans and recommendations with respect to any project which may have a substantial effect on the uses of waters of the Columbia river and its tributaries that are of international concern.

Cooperation with international joint commission and other agencies.

ARTICLE VI—STORAGE IN UPSTREAM STATES AND ALLOCATION OF POWER

A. It is to the best interests of the region that power projects be constructed in sufficient number and with sufficient speed and capacity to meet the energy requirements of the region as those requirements arise so that there will always be a pool of available energy for the development of the region.

Policy as to power projects declared.

B. Maximum utilization of storage is important to the full development of the region and to control floods.

Maximum utilization of storage declared important.

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Downstream states desire assistance from upstream states in achieving this control of the Columbia river system. Before giving such assistance, the upstream states wish to be assured of a reasonable reservation of power, without regard to their existing power needs, in order to meet future requirements.

Effect of ratification of compact as to member states.

C. So far as the states are concerned, by ratification of this compact:

(1) It is the declared purpose and intent of the member states that there shall be a fair and equitable allocation of the hydroelectric power developed in the Columbia river basin.

(2) The member states recognize that full development and utilization of the waters of the Columbia river basin requires storage reservoirs in the upstream states and the member states concur in and will use their best efforts to achieve a plan for storage which would control maximum flows of the river to no more than six hundred thousand (600,000) cubic feet per second measured at the Dalles gauging station during a runoff period no greater than that experienced in 1894.

(3) The member states recognize that on federally developed storage projects located wholly or partly in upstream states a reservation shall be made of the equivalent of a major part of the at site power and energy for use in meeting future needs of such state or states without regard to their existing energy requirements. "At site power and energy" means an annual amount of power and energy, equal to the quantity of system firm (prime) power and energy which such project would be capable of producing at site as an addition (determined as of the date of the recommendation) to the system firm (prime) power and energy, when operated to produce maximum coordinated benefits to the system, assuming full release of all storage water during the system's drawdown period with stream flows in the Columbia river basin as at the historical minimums.

ARTICLE VII—APPORTIONMENT OF WATER AND RELATED MATTERS

Apportionment of water.

A. So far as the states are concerned, all waters of the Columbia river system shall be available for appro-

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priation for beneficial purposes under and to the extent permitted by the laws of the states involved, but, except for the provisions in this subdivision A relating to certain relationships between consumptive and nonconsumptive uses, no apportionment of waters or determination of rights to the use thereof is made by this compact.

Rights to beneficial consumptive uses recognized.

So far as the states are concerned, rights to beneficial consumptive uses of water within the upstream area, whether established heretofore or hereafter under the laws of the states involved, shall be recognized up to the average annual depletions shown in plate 7 of the report of the north Pacific division, U. S. army engineers dated 1, June, 1958, as against, and shall not be limited by, any rights, existing or future, to the quantity of such waters for nonconsumptive uses.

Determination of use rights on tributary streams.

In the case of a stream situated wholly within a downstream state and tributary to the Snake river or to the Columbia river, however, the relationships as between nonconsumptive use rights appurtenant to a development located thereon and consumptive use rights as to the waters of such a tributary upstream from that development shall be governed by the laws of that state without regard to the foregoing limitations of this subdivision.

Diversion on approval.

B. No waters of the Columbia river system shall be diverted out of the Columbia river basin for use for any purpose except with the approval of all of the member states, but this provision shall not affect rights so to divert which are existing on the effective date of this compact.

Powers of commissioners—apportioning waters.

C. The member states hereby designate, appoint and empower their commissioners to draft, negotiate and propose any and all compacts apportioning waters of any tributary stream forming part of the Columbia river system among or between the states through which said tributary stream flows, or amendments to this compact. Any such supplementary compacts or amendments to this compact negotiated as herein provided shall become effective upon approval by the commission, ratification by the legislatures of the member states party thereto, and consent thereto by the congress.

Prior interstate compacts not affected.

D. All interstate compacts affecting the waters of the Columbia river system which are in effect as of the

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date this compact becomes operative shall remain unaffected hereby.

Effect of termination of compact.

E. In the event this compact is terminated, any right to the beneficial consumptive use of water which, prior to the date of termination, is required to be recognized under the provisions of this compact shall continue to be recognized after such termination to the extent herein provided. Unless otherwise expressly provided in a supplemental compact, made pursuant to the provisions of subdivision C of this article, no such right required to be recognized as of the effective date of such supplement shall be impaired by such supplemental compact.

ARTICLE VIII—POLLUTION CONTROL

Pollution control of Columbia river basin declared essential.

A. The states and the United States recognize that the rapid increase of the population of the Columbia river basin and the growth of industrial, mining, and related activities within that area can lead to such pollution of the waters of the Columbia river system as might constitute a menace to the health and welfare of the people. The states and the United States further recognize that maintenance and improvement of the quality of the waters of the Columbia river system require cooperative action and that pollution abatement and control are essential to the proper realization of the objectives of this compact and to the safe, profitable, and efficient multiple-purpose use of the waters of said Columbia river system.

Duty and power of commission.

B. In addition to the powers enumerated in article V, it shall be the duty of the commission and the commission shall have power:

Pollution data and reports.

(1) To engage in such investigations, analyses or other appropriate means as are deemed necessary to obtain, coordinate, tabulate and summarize technical and other data on the pollution of the waters of the Columbia river system or any portion thereof and on the character and condition of such waters and the needs of the Columbia river basin for improved water quality; and to prepare reports thereon at such times as may be deemed advisable by the commission.

Promotion of uniform laws.

(2) To cooperate with governments or agencies thereof or other entities for the purpose of promoting uniform laws, rules or regulations for the abatement and control

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of pollution of the waters of the Columbia river system or any portion thereof, and to make, revise and recommend to the governments water quality objectives necessary to protect the public health, public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial and other uses.

Public information.

(3) To disseminate to the public, by any and all appropriate means, information respecting pollution abatement and control in the waters of the Columbia river system or any portion thereof and on the harmful and uneconomic results of such pollution.

Each state obligated to control pollution.

C. Each state shall have the primary obligation and responsibility to take appropriate action under its own laws to abate and control interstate pollution, which is defined as the deterioration of the quality of the waters of the Columbia river basin within the boundaries of such state which materially and adversely affects beneficial uses of waters of the Columbia river basin in other states. Upon complaint to the commission by the state water pollution control agency of one state that interstate pollution originating in another state or states is not being prevented or abated, the procedure shall be as follows:

Complaint.

Hearing on notice.

(1) The commission shall call a hearing, giving not less than thirty (30) days notice in writing thereof to the water pollution control agencies of the state involved and to each person or entity which the commission finds is charged with causing such interstate pollution.

Hearing rules.

(2) Such hearing shall be held in accordance with rules and regulations prescribed by the commission.

Findings and recommendations.

(3) At the conclusion of such hearing, the commission shall make a finding as to whether interstate pollution exists, and if so, shall recommend to the appropriate agency that action be taken under state or federal law to abate or correct such interstate pollution.

Data available to commission.

D. The water pollution control agencies of the member states shall from time to time, make available to the commission all data relating to the quality of the waters of the Columbia river basin which they possess as the result of studies, surveys and investigations thereof which they may have made.

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ARTICLE IX—FISH AND WILDLIFE AND RECREATION

Policy of commission to preserve fish, wildlife and recreational resources.

A. In the exercise of the powers and functions conferred on the commission, it shall be the policy of the commission to prepare and review plans for development and application of measures for preventing damage to and enhancing the fish and wildlife and recreational resources of the Columbia river basin and to cooperate with all agencies charged with the responsibility for protecting and fostering these resources.

B. In the furtherance of this policy the commission shall:

Information and recommendations of governmental agencies.

(1) Submit pertinent information to, and receive recommendations from official agencies of the governments having jurisdiction or otherwise affected with respect to projects and programs in which the commission may be concerned.

Recommendations of commission to effectuate protection of fish and wildlife.

(2) Taking into consideration recommendations of governmental agencies responsible for fish and wildlife administration, recommend appropriate steps to assure that, in all projects which are within the purview of the commission, effective fish and wildlife protective facilities or compensatory measures as required by the laws of the member states, shall be incorporated into water use developments; that the costs thereof including operation and maintenance be included as a part of the cost of said projects; and that the responsibility for the provision of such effective fish and wildlife protective facilities or compensatory measures as are recommended as a part of the project plan shall continue beyond completion of construction of the individual projects. The fish and wildlife facilities and compensatory measures referred to in this article may include physical installations located elsewhere than at the actual site of the project.

(3) In connection with projects coming within the purview of the commission, give proper recognition to recreational and fish and wildlife values by recommending such steps as may be necessary and practicable—to protect or develop recreational resources; to assure the maintenance of necessary minimum stream flows, reliable and adequate pool levels, and allocation of water for fish and wildlife protective or compensatory facilities,

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and for the regulation of such stream flows and pool levels so as to conform to sound fish and wildlife management practices.

ARTICLE X—RULES AND REGULATIONS

Power granted to adopt and issue by-laws, rules and regulations.

The commission shall have the power to adopt and issue by-laws, rules and regulations to effectuate the purposes of this compact, as in its judgment may be appropriate. The commission shall publish its by-laws, rules and regulations in convenient form, but shall not be subject to the procedural requirements of any particular state.

ARTICLE XI—EXISTING RIGHTS RECOGNIZED

Existing rights not affected.

Nothing in this compact shall be deemed:

Federal rights.

(1) To impair or affect any rights, powers or jurisdiction of the United States, or those acting by or under its authority, in, over and to the waters of the Columbia river basin, except as otherwise provided by the federal legislation required for the implementation of this compact.

Indian rights.

(2) To affect the obligation of the United States to the Indians and Indian tribes, or any right owned or held by or for Indians or Indian tribes which is subject to the jurisdiction of the United States.

Federal use of waters.

(3) To impair or affect the capacity of the United States, or those acting by or under its authority, to acquire in accordance with the laws of the state involved rights in and to use of waters of the Columbia river basin.

Property taxation.

(4) To subject any property of the United States, its agencies or instrumentalities, to taxation by any member state or subdivision thereof.

Federal property rights.

(5) To subject any property of the United States, its agencies or instrumentalities, to the laws of any member state to any extent other than the extent those laws would apply without regard to this compact, except as otherwise provided by the federal legislation required for the implementation of this compact.

State water laws.

(6) To affect the applicability of the laws of any member state with respect to water rights properly claimed thereunder, except to the extent that the applicability in a given case would be inconsistent with the provisions of this compact.

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National parks.

(7) To affect adversely the areas of Mount Rainier, Glacier, Yellowstone, or Grand Teton national parks or Craters of the Moon, Fort Vancouver or Whitman national monuments or to limit the operation of laws relating to the preservation thereof.

ARTICLE XII—TERMINATION

Termination.

This compact shall remain in full force and effect unless and until terminated by action of the legislatures of the states of Idaho, Montana, Oregon and Washington which action is consented to and approved by the congress of the United States; provided, that in the event of any termination all rights theretofore established hereunder or recognized hereby shall continue to be recognized as valid notwithstanding such termination.

ARTICLE XIII—SEVERABILITY

Severability clause.

The provisions of this compact shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any government or the applicability thereof to any government or agency thereof or other entity or to any circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government or agency thereof or other entity or to any other circumstance shall not be affected thereby, unless it is authoritatively and finally determined judicially that the remaining provisions cannot operate for the purposes, or substantially in the manner, intended by the member states independently of the portions declared to be unconstitutional or invalid.

ARTICLE XIV--RATIFICATION AND EFFECTIVE DATE

Effective when ratified by Idaho, Montana, Oregon and Washington.

A. This compact shall become effective and binding when it has been ratified by the legislatures of the states of Idaho, Montana, Oregon and Washington, and when consented to by an act of the congress of the United States, which will, in substance, provide that the United States, or any agency thereof, or any nonfederal entity acting under any future license or other authority granted under the laws of the United States, in connection with water control or use projects located wholly or partly in a downstream state shall be governed by the following limitation:

Consent of congress—limitations.

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Rights to beneficial consumptive uses within the upstream area, whether established heretofore or hereafter under applicable laws, shall be recognized as against any rights, existing or future, to such waters for nonconsumptive uses by projects located wholly or partly within a downstream state, to the extent that average annual depletions resulting from such upstream consumptive uses above any property or authorized structure of the United States, located wholly or partly in a downstream state, were assumed in plate 10 of "Report of the Division Engineer" Volume I of House Document No. 531, 81st Congress, 2nd Session, and to the extent any additional depletions subsequently are recognized by the congress as the basis of operation of existing projects, or as the basis for authorization of additional or revised projects.

Ratification by Nevada, Utah and Wyoming.

B. If this compact becomes effective in accordance with the above provision, it shall also become effective and binding as to any of the states of Nevada, Utah or Wyoming if ratified by the legislature of any such state.

Qualifications—Montana members of commission.

Section 2. There shall be three (3) members of the Columbia interstate compact commission from the State of Montana, not more than two (2) of whom shall be of the same political party. Such commissioners shall be appointed by the governor by and with the advice and consent of the senate. The governor is hereby authorized and directed to make such appointments within thirty (30) days from the effective date of this act. The terms of each of the initial three (3) members shall begin at the time of their appointment, provided said compact shall then have gone into effect; otherwise such terms shall begin upon the date on which said compact shall become effective. One of said three (3) commissioners first appointed shall be appointed for a term of six (6) years, one shall be appointed for a term of four (4) years, and one shall be appointed for a term of two (2) years; and their successors shall be appointed by the governor by and with the advice and consent of the senate for terms of six (6) years each. Each commissioner shall hold office until his successor shall be appointed and qualified. Vacancies occuring in the office of any such commissioner for any cause or reason shall be filled by appointment by the governor by and with the advice and consent of the senate for the unexpired term. Any appointment

Appointment by governor.

Term of office.

Vacancy appointments.

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made by the governor while the senate is not in session shall be effective as a temporary appointment until the next meeting of the senate when the governor shall present to that body his nomination for the office.

Grant of powers.

Section 3. There is hereby granted to the commission and the commissioners thereof all the powers provided for in said compact and all powers necessary or incidental to the carrying out of said compact in every particular.

Compensation and expenses.

Section 4. Each member of the commission from the State of Montana shall be entitled to receive as full compensation for his services the sum of twenty dollars ($20.00) per day while actually engaged in the performance of his duties as commissioner and shall be entitled in addition thereto, to his traveling and other actual and necessary expenses while so engaged.

State officers empowered to carry out compact.

Section 5. All officers of this state are hereby authorized and directed to do all things, falling within their respective provinces and jurisdiction, necessary to or incidental to the carrying out of said compact in every particular. All officers, bureaus, departments, and persons of and in the government or administration of this state are hereby authorized and directed, at convenient times and upon the request of the said commission, to furnish said commission with information and data possessed by them or any of them, and to aid said commission by any means lying within their legal powers respectively.

Powers granted—not limitation.

Section 6. Any powers herein granted to the commission shall be regarded as in aid of and supplemental to, and in no case a limitation upon any of the powers vested in said commission by other laws of this state or by the laws of other signatory states or by congress or the terms of said compact, which shall be liberally construed.

Notice by governor of ratification and approval.

Section 7. The governor of Montana shall give notice of the ratification and approval of the compact by the Montana legislature to the governors of the states of Washington, Oregon, Idaho, Utah, Nevada, and Wyoming, and to the president of the United States.

Effective immediately.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1961.

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CHAPTER 86

An Act to Amend Section 75-1903, Revised Codes of Montana, 1947, Relating to the School Census; Providing for Making the Census; Defining the Term 'Residing' for Census Purposes; Providing for Reporting the Census; Providing for Liability for Failure to Comply With This Act; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1903, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Clerk of school district to make annual census.

"75-1903. **School census — How made — Liability for failure or neglect.** (a) The clerk of the school district shall make annually between the 15th day of September and the 15th day of October of each year an exact census of all children and youths between the ages of six and twenty-one years residing in the district. The term 'residing' as used in this section shall be defined in such a way as to include (1) children residing with their parents or guardians in such district, (2) children temporarily residing outside of such district for the purpose of attending any *public or private school or any institution of higher learning, other than custodial or training institutions operated and financed by the State of Montana,* providing that parents of resident children of any district must be residing in the district on the first day of October and provided further that the resident children themselves must have been actual residents of the district immediately previous to such outside residence, *(3) married persons under twenty-one years of age residing in the district, regardless of the residence of their parents, (4) children residing in private institutions located in the district that exist primarily not for educational purposes but for the rehabilitation, psychiatric or general medical care, correction, or general welfare of youth, and which institutions incidentally may or may not also provide education for the children residing in said institution, (5) any other children who are residents of such district and who are not specifically excluded hereinafter.* The term 'residing' is further defined in such a way as to exclude (1) children temporarily visiting in or passing thru such district, (2) children who have never actually resided within the district, even tho their parents or guardians shall

"Residing" defined.

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reside within the district, (3) children who are residing within the district for the purpose of attending any *public school, or any private school or institution which exists only for the purpose of providing elementary, secondary or higher education,* (4) all children who may properly be included in the census of some other district, *(5) unmarried persons between six and twenty-one years of age residing in the district who are not regularly enrolled in any public or private school or institution which exists only for the purpose of providing elementary, secondary, or higher education and whose parents do not reside in the district as of the first day of October.* He shall take specifically and separately a census of all children under the age of six years in the manner aforesaid.

Census form and fact requirements.

"(b) The census of the clerk shall be made in alphabetical form upon blanks to be furnished by the county superintendent of schools and shall show the following facts:

"1. The full name of all children less than twenty-one years of age and residing in the district on the first day of October. Such names shall be given by families under the name of the parents or guardian.

"2. The Christian and surnames of both parents or guardian including initials of all middle names together with the place of residence of said parents or guardian specified by street and number if living in city or town, or if living in any other than a city or town the post-office address of such parents or guardian must be given. The year, month, and day on which each child was born and the age in years, counting the first day of October, and sex.

"3. Such other facts as the superintendent of public instruction may require.

Reports must be made under oath.

"(c) He shall make under oath two full reports on blanks furnished for the purpose to the county superintendent of schools within fifteen days after the completion of the census and a copy of said report shall be delivered to the school trustees. Failure to make such report as specified, or the inclusion in such report of names of children which are fictitious or names of children which are not residents of the district shall constitute a misdemeanor and shall be punishable by a fine of not less than ten

Penalty for violation.

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dollars ($10.00) nor more than fifty dollars ($50.00). For taking the census the district clerk shall be paid by the board of trustees from the county school money to the credit of the district in the same manner as other contingent expenses are paid at a rate not exceeding ten cents for each child's name returned by him. The clerk shall not be paid for taking the census until after the list has been checked by the county superintendent, as hereinafter provided, and the correct number of children reported to the school trustees. He shall receive such other compensation for other services as may be allowed by the board of trustees. In case any district clerk shall fail to take the census as provided in this act or shall fail to take a proper and accurate census at the proper time and if thru such neglect the district fails to receive its apportionment of school money, such school clerk shall be individually liable to the district for the full amount so lost and it may be recovered on a suit by any citizen of such district in the name and for the benefit of such district."

Compensation of clerk.

Clerk individually liable.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 28, 1961.

CHAPTER 87

An Act to Amend Section 75-506.1, Revised Codes of Montana, 1947, Enacted in Section 1, Chapter 108, Session Laws of 1951; Relating to Permitting Indians to Attend Units of the University of Montana Without Payment of Fees; Defining Who May Attend and Increasing the Number Thereof; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-506.1, Revised Codes of Montana, 1947, enacted in section 1, chapter 108, Session Laws of 1951, be, and the same is hereby amended to read as follows:

Amending clause.

"75-506.1 **Indians permitted to attend without payment of fees — Selection.** Any person of one-fourth (1/4) Indian blood or more who shall receive a diploma and who shall have completed the regular course of a four-

Selection of Indians to attend university units by superintendent of public instruction.

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year accredited high school or federal Indian school in Montana, and shall have shown evidence of studious and industrious habits, shall be entitled, upon the recommendation of the state board of education, to enroll in any of the units of the university of Montana for four (4) years without the payment of fees required of students attending such institutions. The number of such Indians chosen each year shall not exceed *twenty-four (24),* of whom at least six (6) shall be enrolled for the purpose of training to become teachers. Rules and regulations governing the selection of these pupils shall be formulated by the state board of education and the state superintendent of public instruction is hereby designated as the agent of the board in carrying out this act."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 28, 1961.

CHAPTER 88

An Act Relating to Establishment of Airports by Counties and Cities; Extending the Scope of the Act to Permit a County, City or Town to Act Jointly With Any Other County, City or Town to Establish and Operate an Airport by Amending Sections 1-801, 1-802 and 1-803, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 1-801, Revised Codes of Montana, 1947, is amended to read as follows:

Counties, cities and towns may establish airports by joint action.

"1-801. (5668.35) **Counties, cities and towns may acquire land for, and establish airports and landing fields.** Counties, cities and towns in this state, may either individually or by the joint action of a county and one (1) or more of the cities and towns within its border acquire by gift, deed, purchase or condemnation, land for airport or landing field purposes and thereon establish, construct, own, control, lease, equip, improve, operate, and regulate airports or landing fields for the use of airplanes and other aircraft, and may use for such purpose or purposes any property suitable therefor that now or may at any time

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hereafter be acquired, owned or controlled by such county, city or town.

"In addition, a county, city or town may do the acts authorized by this section by acting jointly with one or more counties, with one or more cities, with one or more towns or any combination of such counties, cities or towns. Such airport need not be located within the limits of each subdivision participating in the joint venture, in whole or in part."

Amending clause.

Section 2. Section 1-802, Revised Codes of Montana, 1947, is amended to read as follows:

May exercise right of eminent domain.

"1-802. (5668.36) **Land when deemed acquired for public use — Exercise power of eminent domain.** Any lands acquired, owned, controlled or occupied by any county, city or town, *individually* or pursuant to joint action as herein provided for the purposes enumerated in section 1-801, shall and are hereby declared to be acquired, owned, controlled and occupied for a public use, and as a matter of public necessity, and such counties, cities and towns, whether acting individually or jointly shall have the right to acquire property for such purposes under the power of eminent domain as and for a public use or necessity."

Section 3. Section 1-803, Revised Codes of Montana, 1947, is amended to read as follows:

May create board to govern airport.

"1-803. (5668.37) **Creation of board to govern airport — Fees — Fund for maintenance — Rules and regulations.** The county, city or town, *acting individually* or acting jointly as herein authorized *by section 1-801,* having established an airport or landing field and acquired property for such purpose, may construct, improve, equip, maintain, and operate the same, and for that purpose may create a board or body from the inhabitants of such county, city or town, or such joint subdivisions of the state for the purpose of conferring upon them and may confer upon them the jurisdiction for the improvement, equipment, maintenance and operation of such airport or landing field. The board of county commissioners, the city or town council, as the case may be, or the board of county commissioners and the council or councils under a joint venture may adopt rules and establish fees or charges for the use of such airport or landing field, or may authorize

Rules and fees may be etablished.

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such board or body to do so, subject, however, to the approval of the appointing power before the same shall take effect. All expenses of such construction, improvement, equipment, maintenance and operation shall be a charge against such county, city or town, or, when a county, *city or town* acts jointly under the authority herein given, such charges shall be against the joint subdivisions of the state, and shall be apportioned according to benefits to accrue, the proportion to be paid by each to be fixed in advance by joint resolution of the governing bodies.

Expenses.

Joint apportionment.

Joint fund.

"For the purpose of meeting the charges hereinbefore mentioned when the airport or landing field is such joint venture, a joint fund shall be created and maintained into which each of the political subdivisions interested shall deposit its proportionate share in accordance with the predetermination of the board of county commissioners and council, or councils, affected.

Disbursements by joint board.

"All disbursements from such fund shall be made by order of such joint board or body, if one be created as hereinabove authorized, otherwise under such rules and regulations as the joint control by the commissioners and council or councils may adopt."

Approved February 28, 1961.

CHAPTER 89

An Act Relating to the Interest and Income Funds of State Institutions; Amending Sections 79-1401, 79-1402 and 79-1403, Revised Codes of Montana, 1947, and Repealing Sections 79-1404 and 79-1405, Revised Codes of Montana, 1947, to Delete Certain Obsolete Language and to Eliminate the Duties of Institutional Executive Boards Relating to Such Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 79-1401, Revised Codes of Montana, 1947, is amended to read as follows:

"Interest and income fund" for state institutions.

"79-1401. (1922) All moneys received from the investment of the permanent funds of *a state institution* and all money received from the leasing of lands granted to *a state institution* shall, at the close of each calendar

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month, be deposited with the state treasurer of Montana for each of such institutions, to the credit of what shall be known and designated as the 'interest and income fund' of each of said institutions.''

Amending clause.

Section 2. Section 79-1402, Revised Codes of Montana, 1947, is amended to read as follows:

Payment of claims by warrant.

''79-1402. (1923) The money received by the state treasurer under the provisions of the preceding section shall be paid out by him only on warrant issued by the state auditor in payment of claims for expenses actually incurred for the support and maintenance of the institution filing the same.''

Amending clause.

Section 3. Section 79-1403, Revised Codes of Montana, 1947, is amended to read as follows:

Fund must be used first for payment.

''79-1403. (1924) In the payment of claims presented by *a state institution entitled to interest and income from land grants or funds arising therefrom, no warrant* shall be drawn against the appropriation made by the state out of the general fund for the maintenance of the institution filing the claim *until the interest and income fund, insofar as it is available for the payment of the items in the claim, is exhausted.*''

Repealing clause.

Section 4. Sections 79-1404 and 79-1405, Revised Codes of Montana, 1947, are repealed.

Approved February 28, 1961.

CHAPTER 90

An Act Relating to Teachers' Examinations and Certificates; Amending Section 75-2501, Revised Codes of Montana, 1947, by Changing Subsection 4 to Require Certificates to be Registered Not Later Than Sixty Days After the Term of Such Teacher Begins.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-2501, Revised Codes of Montana, 1947, is amended to read as follows:

Public school teacher must be citizen unless exchange teacher.

''75-2501. (1088) **Examinations and certificates — Certificates of qualifications required of teachers.** (1) No certificate to teach in the public schools of Montana

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shall be granted to any person who is not a citizen of the United States. This requirement shall not apply to such persons who are not citizens of the United States but who are approved annually by the state board of education for employment as exchange teachers from foreign countries or who are approved annually for employment for special instruction, study or research in the public high schools, the public junior colleges and the units of the university of Montana. During no school or university year may the number of persons so approved for employment by the state board of education exceed a total of one hundred (100) persons for both the public high schools and the units of the university of Montana.

Age and health requirements.

"2. No person is eligible to teach in any public school in this state, or to receive a certificate to teach, who has not attained the age of eighteen (18) years and who has not secured and presented to the certification authority a satisfactory health certificate from a reputable physician.

Certificate required.

"3. No person shall be accounted a qualified teacher within the meaning of the school law who has not first secured from the certificating authority a certificate setting forth his qualifications to teach in the public schools of Montana.

Registration of certificate within sixty days.

"4. All certificates before they shall be valid in any county must be registered in the office of the county superintendent of schools of such county within *60 days after the term of service of any teacher begins, and no salary for services rendered after this grace period has expired shall be paid any teacher who fails to register such certificate.*"

Approved February 28, 1961.

CHAPTER 91

An Act Relating to the State Budget Act; Changing Dates on Which the Director of the Budget Shall Distribute Blanks for Preparation of the Budget and on Which State Departments, Agencies, University Units and Custodial Institutions Shall Submit Information for the Budget, by Amending Section 2, Chapter 158, Laws of 1959, Compiled as Section 79-1013, Revised Codes of Montana, 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 2, chapter 158, laws of 1959, compiled as section 79-1013, Revised Codes of Montana, 1947, is amended to read as follows:

Director of budget to distribute blanks for budget estimates.

"Section 2. In the preparation of a state budget the director of the budget shall not later than the *first* day of *July* in the year preceding the convening of the legislative assembly, distribute to all state offices and institutions, including the judicial department, the proper blanks necessary for the preparation of budget estimates. These blanks shall be in such form as shall be prescribed by the director of the budget to procure such information as the director of the budget shall, in his discretion, feel is necessary for the preparation of a budget including budget estimates, estimates of revenues, actual revenues received, expenditures made and other information classified and grouped as requested by the director of the budget and covering such period or periods of time as specified by the director of the budget.

Duty of state agency to submit budget information—when.

"(a) *Except as provided in this paragraph,* it shall be the duty of each department and agency to submit information requested by the director of the budget on or before the *first* day of *August* in the year preceding the convening of the legislative assembly. *Each unit of the university of Montana and each state custodial institution shall submit such information on or before the first day of September of such year.*

Procedure on failure to submit.

"(b) If any department, institution or agency shall fail to present such requested information within the time herein specified, the director of the budget shall note that fact in the budget submitted to the governor, and the director of the budget shall prepare a budget request on behalf of such department, institution or agency, based upon his studies of the operations, plans and needs thereof."

Approved February 28, 1961.

CHAPTER 92

An Act to Amend Section 94-801-1 (12433) Revised Codes of Montana, 1947, Relating to the Disposition of Fines,

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Costs and Forfeitures; by Providing for Disposition of Forfeitures in Certain Cases to a Wife, or Guardian or Custodian of a Minor Child; and by Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 94-801-1 (12433), Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Disposition—fines, costs and forfeitures.

"94-801-1. (12433) **Fines, costs, and forfeitures, how disposed of.** All fines and forfeitures collected in any court, except police courts, must be applied to the payment of the costs of the case in which the fine is imposed or the forfeiture incurred; and after such costs are paid, the residue must, *save as hereinafter provided,* be paid to the county treasurer of the county in which the court is held and if not otherwise provided by law, by him credited to the general school fund *of said county. In the event the fine or forfeiture arises from an action commenced pursuant to section 94-301 or section 94-304 of this code, the residue thereof, after such costs are paid, may be directed by the court to be paid, in whole or in part, to the wife, or to the guardian or custodian of the child or children. If the said fine or forfeiture is paid to the county treasurer at the time of such payment* there shall be filed with the county treasurer, a complete statement showing the total of the fine or forfeiture received or incurred with an itemized statement of the costs incurred by the county in such action, which statement shall give the title of the cause and be subscribed by the person or officer making such payment."

When court may direct payment of residue to wife or guardian.

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are herewith repealed.

Approved February 28, 1961.

CHAPTER 93

An Act to Amend Section 15-606 of the Revised Codes of Montana, 1947, Relating to the Provision That Five Per Cent of Stock May Demand a Statement of the Affairs of a Corporation From the Treasurer; by Chang-

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ing the Description of the Statement to be Furnished From a Statement Embracing a Particular Account of All the Corporation's Assets and Liabilities in Minute Detail to a Statement of Its Assets and Liabilities in a Form Ordinarily Used and Accepted in Commercial Transactions.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 15-606 of the Revised Codes of Montana, 1947, is hereby amended to read as follows:

Treasurer of corporation must make statement of assets and liabilities on demand of persons owning five per cent of capital stock.

"15-606. (5957) **Five per cent of stock may demand statement.** Whenever any person or persons owning five per cent of the capital stock of any corporation shall present a written request to the treasurer thereof that they desire a statement of the affairs of such corporation, it shall be the duty of such treasurer to make a statement under oath, *of its assets and liabilities in a form ordinarily used and accepted in commercial transactions,* and to deliver such statement to the persons who presented the said written request to said treasurer within twenty days after such presentation; and shall also, at the same time, place and keep on file in his office for six months thereafter a copy of such statement, which shall, at all times during business hours, be exhibited to any stockholder of said corporation demanding an examination thereof; such treasurer, however, shall not be required to deliver such statement in the manner aforesaid oftener than once in six months. If such treasurer shall neglect or refuse to comply with any provisions of this chapter, he shall forfeit and pay to the person presenting said request the sum of fifty dollars, and the further sum of ten dollars for every twenty-four hours thereafter until such statement shall be furnished, to be sued for and recovered in any court having cognizance thereof."

Copy filed in office for six months.

Penalty for refusal.

Approved February 28, 1961.

CHAPTER 94

An Act to Amend Section 80-201, Revised Codes of Montana, 1947, and Section 80-210.1, Revised Codes of Montana, 1947, Enacted as Section 1, Chapter 189, Laws of 1959, Providing for the Care and Custody of Geriatrics

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and Seniles at the Montana State Tuberculosis Sanitarium.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 80-201, Revised Codes of Montana, 1947, be, and the same is, hereby amended to read as follows:

Establishment of "Montana state tuberculosis sanitarium."

"80-201. (1511) **Establishment and objects.** There is hereby established a state hospital to be known as the 'Montana State Tuberculosis Sanitarium' for the treatment of tuberculosis and also what is commonly called 'miner's consumption,' *which may also be utilized for geriatric and senile patients,* the location thereof to be determined as hereinafter specified."

May be used for geriatric and senile patients.

Amending clause.

Section 2. That section 80-210.1, Revised Codes of Montana, 1947, enacted as section 1, chapter 189, laws of 1959, be, and the same is, hereby amended to read as follows:

Admission of patients on certification by physician.

"80-210.1 **Admission of patients to sanitarium.** The executive board of the sanitarium is hereby given the power and authority to receive any person as a patient who is suffering from tuberculosis or what is commonly called miner's consumption. An applicant for admission to the sanitarium need not be a citizen or resident of the State of Montana for any length of time before he can be admitted as a patient. No person shall be admitted as a patient without certification by an examining licensed physician and surgeon that the applicant is suffering from tuberculosis or miner's consumption, such certification being in form and containing such information as determined necessary by the superintendent of the sanitarium. Applications with their certification shall be submitted to the health officer of the county where application is made or directly to the superintendent. Upon acceptance of a patient for admission to the sanitarium, the superintendent shall notify the referring physician and the state board of health. The medical staff of the sanitarium shall be the sole judge of who is afflicted with tuberculosis that may benefit by admission to the sanitarium.

Order of admission.

"Admission to the sanitarium shall be made in the order in which the name of the applicant shall appear upon an application book to be kept by the superintendent. An applicant's name may only be entered if his application

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is accompanied by the certificate of an examining physician. Residents of Montana shall be entitled to admission to the sanitarium before applicants who are not residents. Provided, however, that where the next patient in order is a man and the only accommodations available in the sanitarium are for women or children, then women and children shall be admitted in their proper order and vice versa.

Executive board of sanitarium may accept geriatric and senile patients.

"In the event there are adequate facilities available at the Montana State Tuberculosis Sanitarium, the executive board of the sanitarium may also accept geriatric and senile patients. Applications for admission, laws, rules and regulations pertaining to the care and custody of geriatric and senile patients in other state institutions shall apply to said geriatric and senile patients at the Montana state tuberculosis sanitarium."

Approved February 28, 1961.

CHAPTER 95

An Act Providing for the Protection of the Public Health by Requiring the Approval of the State Board of Health of Plans for Water Facilities and Sewage Disposal Facilities in Subdivisions and Proposed Subdivisions, Providing a Definition for a Subdivision for Sanitary Purposes, Providing for the Filing of Subdivision Maps or Plats Subject to Sanitary Restrictions, Prohibiting the Erection of Buildings and Shelters, the Use of Which by Persons Necessitates Supplying Water, Sewage or Waste Disposal Until Restrictions Have Been Removed by the State Board of Health, Providing for Removal of Sanitary Restrictions, Providing for Rules and Regulations Pursuant to the Administration of This Act Including Sanitary Standards, Repealing All Acts or Parts of Acts in Conflict With This Act and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Declaration of state public policy to extend control of water supply and sewage disposal.

Section 1. **Declaration of State Public Policy.** The legislative assembly has determined that the health and safety of Montana citizens are being endangered by drainage from cesspools, septic tanks, privies, water closets, and

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other sources of polluting matter by liquid raising to the ground surface creating nuisances and seeping into drinking water supplies obtained from wells, springs, streams, lakes and ponds. It is declared the public policy of this state to extend the present laws controlling water supply and sewage disposal to include individual wells that may be effected by adjoining sewage disposal and individual sewage systems that may effect adjoining wells.

"Subdivision" defined.

Section 2. The word "subdivision" as used in this act shall mean any tract of land which is hereafter divided into five (5) or more parcels, any parcel of which is less than five (5) acres in size, along an existing or proposed street, highway, easement or right-of-way for sale, rent or lease, as residential lots or residential building plots which are described by reference to a map or survey of the property or by any other method of description.

All subdivision maps or plats must conform before filing or recording by county clerk.

Section 3. All such subdivision maps or plats or revisions thereof shall be subject to the filing and sanitary requirements provided in this act and its rules and regulations and no county clerk and recorder shall file nor record nor accept for filing or recording any map or plat showing such subdivision of land in any city, town or county unless it complies with the provisions of this act, except as provided in section 4 (a) of this act.

Section 4. (a) Any such subdivision map or plat or revision thereof filed or recorded by the county clerk and recorder in accordance with other provisions of law may be so filed or recorded without regard to the sanitary requirements provided for in this act and its rules and regulations; provided, however, that any such map or plat to be so filed or recorded shall first be subject to a sanitary restriction which must be recorded on or attached to the map or plat by the county clerk and recorder; and no building or shelter, the use of which by persons necessitates supplying water, sewage or waste disposal, shall be erected until such restriction has been removed or modified as provided hereafter.

Sanitary restriction must be recorded on or attached to map or plat; building only after removal or modification.

Map or plat submitted to state board of health.

(b) Any such subdivision map or plat or revision thereof may be submitted to the state board of health at any time prior to or after its filing with the county clerk and recorder for review and approval by the state board of health for the water and sewage facilities pro-

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posed for such subdivision in accordance with the provision of this act and its rules and regulations. Upon approval of the state board of health said board shall provide the county clerk and recorder a record of its approval or any conditions thereof for recording on said map or plat or for attachment thereto. When any subdivision map or plat calls for both a public water and public sewage system and the design and construction of such is not complete a restricted approval shall be given and recorded by the state board of health; provided, however, that permanent buildings as described above shall not be constructed in such subdivision until such restriction has been removed or modified as provided hereafter.

Approval by board—notice to county clerk.

Restricted approval.

(c) Any such subdivision map or plat or revision thereof filed by the county clerk and recorder subject to a sanitary restriction shall have such restriction removed or modified with such restriction removal or modification being made and recorded by the county clerk and recorder on or attached to said map or plat upon receipt of state board of health notice that (a) the state board of health approves plans and specifications for a public water facility and a public sewage facility under existing law pertaining to such facilities and such facilities are constructed or (b) the subdivision map or plat is approved as provided for under the rules and regulations for subdivisions not providing public water or public sewage systems.

County clerk to record restriction removal or modification.

Section 5. The state board of health is hereby empowered, authorized, and directed to make such rules and regulations including the adoption of sanitary standards necessary for the administration and enforcement of this act. Such rules and regulations shall clearly provide the basis for approving subdivision maps or plats for various types of water and sewage facilities, both public and private; and shall be related to the size of the lots, contour of the land, porosity of the soil, ground water level, type and construction of private water and sewage facilities and other factors which may be concerned in the judgment of the state board of health with the proper disposal of sewage and the procurement of safe water for the purpose of protecting the health and preventing disease of persons in or adjacent to the areas covered by this act.

State board of health to make rules and regulations and adopt sanitary standards.

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Repealing clause.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1961.

CHAPTER 96

An Act Consenting to the Acquisition by the United States of Land, Water, or Land and Water, Within the State of Montana for Migratory Bird Reservations Authorized by the Act of Congress of February 18, 1929, (as Amended), and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Consent of state of Montana to acquisition of land by United States for migratory bird reservations.

Section 1. Consent of the State of Montana is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land, water, or land and water, in the State of Montana, as the United States may deem necessary for the establishment of migratory bird reservations in accordance with the act of congress approved February 18, 1929, (as amended), entitled "an act to more effectively meet the obligations of the United States under the migratory bird treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes," reserving however, to the State of Montana full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of said act of congress.

Reservation of state jurisdiction.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 28, 1961.

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CHAPTER 97

An Act to Relieve the State Board of Examiners of the Duty to Approve Liquidated Claims and to Provide for the Pre-Audit of Such Claims by the State Controller After Authorization of the Expenditure by the Officer or Governing Board of the Department Concerned; to Amend the Following Sections to Delete the Requirement That the Board of Examiners Process Claims for Expenditures: Section 79-104, Revised Codes of Montana, 1947, Relating to the State Auditor, Section 79-202, Revised Codes of Montana, 1947, Relating to the State Treasurer, Sections 82-1101, 82-1105, and 82-1152, Revised Codes of Montana, 1947, Relating to the State Board of Examiners, Sections 93-306 and 93-314, Revised Codes of Montana, 1947, Relating to District Judges, Sections 94-9825 and 94-9826, Revised Codes of Montana, 1947, Relating to the Board of Pardons, Section 44-410, Revised Codes of Montana, 1947, Relating to the State Law Library, Sections 44-514 and 44-515, Revised Codes of Montana, 1947, Relating to the Historical Society Library, Section 19-121, Revised Codes of Montana, 1947, Relating to the Montana Fine Arts Commission, Section 23-1815, Revised Codes of Montana, 1947, Relating to the State Board of Canvassers, Section 26-123, Revised Codes of Montana, 1947, Relating to the Fish and Game Commission, Section 32-1620, Revised Codes of Montana, 1947, Relating to the State Highway Commission, Sections 46-202, 46-224, 46-228, Revised Codes of Montana, 1947, Relating to the Livestock Sanitary Board, Sections 46-1909 and 46-1914, Revised Codes of Montana, 1947, Relating to the Livestock Commission, Section 46-2306, Revised Codes of Montana, 1947, Relating to the Grass Conservation Commission, Section 59-540, Revised Codes of Montana, 1947, Relating to the Board of Examiners, Section 77-151, Revised Codes of Montana, 1947, Relating to the National Guard, Section 80-747, Revised Codes of Montana, 1947, Relating to the State Prison, Section 80-748, Revised Codes of Montana, 1947, Relating to County Sheriffs and Section 82-2212, Revised Codes of Montana, 1947, Relating to the Secretary of State; and to Repeal Sections 59-541, 82-1109, 82-1110, 82-1111, 82-1112, 82-1120, 46-1910 and 46-1911, Revised Codes of Montana, 1947; and Containing a Repealing Clause.

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Be it enacted by the Legislative Assembly of the State of Montana:

Authorization of salaries and expenses.

Section 1. *All authorizations for salary payments, operating expenditures, including all travel, or capital expenditures, including repairs and replacements, shall be given by the officer or governing board of the department concerned, and a record shall be kept by such officer or governing board of all such authorizations and expenditures. Claims for any such expenditures must be submitted to the state controller and must bear the signature of the authorizing officer or employee, certifying the following: 'This claim is approved for the sum of $..... It is mathematically and clerically correct, a proper and necessary expense, and a legal charge against appropriation or fund No. .....'.*

State controller shall audit claims.

Section 2. *The state controller shall pre-audit all liquidated or settled claims against the state, ascertaining that (1) the proper authorizing signature is present, (2) the claim and supporting documents are mathematically and clerically accurate, (3) the proper appropriation and fund is charged and that the appropriation is available and adequate, and (4) the expenditure is not illegal. If the volume of claims will not permit such audit of each claim, item (2) above may be accomplished on a spot-check basis. The pre-auditing conducted by the state controller shall be concerned only with the form and accuracy of the claim and supporting documents, and the availability of the funds, and in no event shall the state controller interpose his judgment regarding the wisdom or expediency of any item or items of expenditure. If no appropriation is available for the payment of a settled or liquidated claim, the controller shall audit it and, if it is a valid claim, transmit it to the governor through the office of director of the budget for presentation to the legislative assembly.*

Any unliquidated or unsettled claims submitted to the state controller shall be transmitted to the state board of examiners to be processed as provided by law.

State controller to regulate processing of claims.

Section 3. *The state controller may prescribe the claim form and may establish in writing, rules and regulations not inconsistent with law governing the preparation, submittal and processing of claims. All claims shall be processed in the order of their presentation, and all claims disapproved by the state controller shall be returned to*

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the operating agency with an explanation in writing of why the claim was disapproved. The officer or governing board of a department which is aggrieved by the disapproval of a claim by the controller, may appeal to the state board of examiners.

Appeal on disapproval.

Section 4. *The state controller shall maintain a schedule of all salaries paid to personnel of civil executive state offices and shall only approve payroll claims agreeing with that schedule. All changes in personnel or salary status shall be authorized as provided by law, and the state controller shall alter his schedule accordingly when notified by the authorizing agency. However, no changes in personnel or salary status shall be authorized that will cause a department to exceed its appropriation or that will result in a deficiency or supplemental appropriation request to the legislative assembly.*

State controller shall maintain schedule of salaries.

Section 5. Section 79-104, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"79-104. All warrants for claims which have been audited by the *state controller* and filed in his office must be drawn in the order *in which they are transmitted to him by the controller.*"

Warrants drawn in order.

Section 6. Section 79-202, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"79-202. No moneys received by the state treasurer shall be paid out by him except upon state warrant issued by the state auditor, and the state auditor shall not issue his warrant upon the state treasurer save by virtue of unexhausted appropriation therefor made by the legislative assembly, and after the presentation to him of a claim duly approved by the state *controller,* save and except for salaries and compensation of officers fixed by law; provided, however, that nothing in this act contained shall require an appropriation by the legislature for the administering of any specific trust funds administered by any state board, commission or department."

No moneys paid except on state warrant.

Section 7. Section 82-1101, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"82-1101. The governor, secretary of state, and attorney general constitute a board of examiners. *This board is not required to examine settled or liquidated claims for ex-*

Board of examiners need not examine liquidated claims.

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penditures of any office or department of state government.''

Amending clause.

Section 8. Section 82-1105, Revised Codes of Montana, 1947, is amended to read as follows:

Board to keep record.

''82-1105. The board must keep a record of all its proceedings, and any member may cause his dissent to the action of the majority upon any matter to be entered upon such record.''

Amending clause.

Section 9. Section 82-1152, Revised Codes of Montana, 1947, is amended to read as follows:

Certification of rates for publication.

''82-1152. *No claim against the state for legal advertising or any of the publications covered by this act shall be allowed unless there is* attached to said claim the *certification* of the publisher or printer (in the case of corporations or quasi-corporations by the business or advertising manager thereof) properly executed, setting forth that the price or rate charged the State of Montana for the publication for which claim is made, is not in excess of the minimum rate charged any other advertiser for publication or advertisement set in the same sized type and published for the same number of insertions. And it is hereby declared to be unlawful to make any claim against or to charge or attempt to charge, the State of Montana for any publication in excess of the minimum going rate charged any other advertiser for the same publication, set in the same sized type and published for the same number of insertions.''

Amending clause.

Section 10. Section 93-314, Revised Codes of Montana, 1947, is amended to read as follows:

Claim for expenses—district judge.

''93-314. On the first of each month, or within three (3) days thereafter, such district judge, who may desire to avail himself of the provisions of this act, shall make out an itemized claim against the State of Montana, showing with dates and particulars, all moneys by him, within the preceding month, paid out and expended for and on account of such expenses; and shall verify such claim by *certifying* that the items of the claim are true and correct, and are wholly unpaid, and that the expenditures therein enumerated were actually and necessarily made in the discharge of official business while away from home. He shall then file such claim *with the state to be processed as provided by law.''*

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Amending clause.

Section 11. Section 94-9825, Revised Codes of Montana, 1947, as enacted by section 5, chapter 153, laws of 1955, and amended by section 1, chapter 122, laws of 1957, is amended to read as follows:

Board shall appoint state directors of probation and parole—compensation.

"94-9825. The board shall appoint a state director of probation and parole, hereinafter referred to as the 'director' who shall appoint, with the approval of the board, an assistant director, probation and parole officers and other employees required to administer the provisions of this act. The director shall receive an annual salary of seven thousand dollars ($7,000.00) per annum payable monthly. All other officers and employees of the board shall receive such compensation for their services as may be fixed by the board. All officers and employees of the board shall hold office at the pleasure of the board and shall perform such duties as are imposed on them by law or by the board.

"The salaries of all officers and employees of the board shall be paid monthly after such salaries have been approved by the board upon claims therefore."

Amending clause.

Section 12. Section 94-9826, Revised Codes of Montana, 1947, as enacted by section 6, chapter 153, laws of 1955, is amended to read as follows:

Expenses of board—payment.

"94-9826. All expenses incurred by the board pursuant to the provisions of this act, including the actual and necessary traveling and other expenses and disbursements of the members thereof, its officers and employees, incurred while on business of the board either within or without the state, shall, unless otherwise provided in this act, be paid from funds appropriated, after being approved by the board upon claims therefor."

Amending clause.

Section 13. Section 44-410, Revised Codes of Montana, 1947, is amended to read as follows:

Accounts for printing—approval and payment.

"44-410. All accounts for the proofing and printing of books, legal periodicals, library collections, furniture, fixtures and supplies must be prepared by the librarian, submitted to and approved by at least one (1) member of the board of trustees and thereafter paid out of the state treasury from the library fund."

Amending clause.

Section 14. Section 44-514, Revised Codes of Montana, 1947, is amended to read as follows:

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Librarian authorized to pay shipping charges.

"44-514. The librarian is authorized to pay reasonable freight, express, and mail charges upon books or other articles sent to the library by the general, state, or foreign governments, or private parties, taking proper vouchers therefor, and upon *approval* of such *claims as provided by law,* the same must be paid out of the state treasury from the particular historical society fund."

Amending clause.

Section 15. Section 19-121, Revised Codes of Montana, 1947, is amended to read as follows:

Montana fine arts commission fund.

"19-121. The funds previously collected for the above purposes and now held by the state treasurer are hereby transferred to a fund to be known as the Montana fine arts' commission fund and there held by the state treasurer as a special fund, not part of the general fund, and to consist only of private donations now and hereafter collected. Such funds may be expended only for the purposes enumerated in such paragraphs 1 to 6 inclusive in section 19-120 as amended herein, by the commission."

Amending clause.

Section 16. Section 23-1815, Revised Codes of Montana, 1947, is amended to read as follows:

Providing for messenger to clerk of board of county canvassers.

"23-1815. If the returns from all the counties have not been received on the fifth day before the day designated for the meeting of the board of state canvassers, the secretary of state must forthwith send a messenger to the clerk of the board of county canvassers of the delinquent county, and such clerk must furnish the messenger with a certified copy of the statement mentioned in section 23-1805. The person appointed is entitled to receive as compensation five dollars per day for the time necessarily consumed in such service, and the traveling expenses necessarily incurred. His account therefor, certified by the secretary of state, must be paid out of the general fund of the state treasury."

Amending clause.

Section 17. Section 26-123, Revised Codes of Montana, 1947, is amended to read as follows:

Payment of salaries and expenses—state fish and game commission.

"26-123. All salaries, per diem, expenses and claims incurred by the state fish and game commission, or any person appointed or employed by them, shall be paid out of the state fish and game funds, upon warrants properly drawn thereon; provided, however, that the aggregate of all salaries, per diem, expenses and claims presented for

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payment shall not exceed at any time the total amount in said state fish and game fund. The state fish and game commission shall approve all bills properly presented which have been incurred under its authority and by its direct order. The expenses of all deputy state fish and game wardens (state fish and game wardens) shall be approved by the state fish and game warden (director), before they are paid, and the salary, per diem or expenses of any employee employed in the propagation or distribution of fish shall be approved by the superintendent of state fisheries, before they are paid. All items of expense, amounting to more than one and one-half dollars incurred by any one employed in the state fish and game department, shall be evidenced by a proper voucher or receipt, before they shall be approved, allowed, or paid."

Section 18. Section 32-1620, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"32-1620. All accounts and expenditures shall be certified by the state highway engineer, and paid by the state treasurer upon warrants drawn by the state auditor out of the proper funds created by this act. In submitting claims for payment as herein provided, the state highway commission shall certify whether the warrant is to be drawn against the state highway fund or the state highway trust fund, and if the claim is against the state highway trust fund, it shall state the particular project to which the payment will apply. The state treasurer is hereby authorized to receive all warrants drawn by the United States government in accordance with the provisions of any act of congress, and to credit the same to the state highway trust fund. Payment of accounts and expenditures—state highway commission.

"The state highway commission shall provide a system of accounting for each project considered which shall show the amount of money received therefor, and also an itemized statement of the expenses in connection therewith." System of accounting.

Section 19. Section 44-515, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"44-515. All other claims, including claims for salaries and expenses of operation, acquisitions, purchases of books, etc., shall be prepared by the claimant, submitted to the librarian for verification and approved and by the librar- Other claims approved by librarian.

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ian approved, and thereafter *processed as provided by law.*''

Amending clause.

Section 20. Section 46-202, Revised Codes of Montana, 1947, is amended to read as follows:

''46-202. All claims against the board must be verified by oath of claimant, or his agent with knowledge of the facts.''

Section 21. Section 46-224, Revised Codes of Montana, 1947, is amended to read as follows:

Payment of claims—livestock sanitary board.

''46-224. Claims against the state arising under this act, if found correct, *shall be processed as provided by law and paid from* any funds or account at the disposal of the livestock sanitary board.''

Amending clause.

Section 22. Section 46-228, Revised Codes of Montana, 1947, is amended to read as follows:

Destruction of animals—indemnification.

''46-228. The owner of any animal or property destroyed, as provided in this act, shall be entitled to indemnity therefor as herein provided, except in the following cases:

''1. Animals belonging to the United States.

''2. Animals brought into the state violating any provisions of this act, or regulations of the livestock sanitary board.

''3. Animals which the owner or claimant knew to be diseased, or had notice thereof at the time they came into his possession.

''4. Animals which had the disease for which they were slaughtered, or which were destroyed by reason of exposure to such disease, at the time of their arrival in the state; providing, however, that any animal or animals of the second class which were shipped into the State of Montana in accordance with the livestock sanitary board regulations and accompanied by the proper certificate of health from a recognized state or federal veterinarian may be paid for when such payment is authorized at a meeting of the livestock sanitary board.

''5. Animals which have not been within the State of Montana for at least one hundred and twenty days prior

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to the discovery of the disease; provided, that animals of the second class which have not been in the state one hundred and twenty days may be paid for when such payment is authorized at a meeting of the livestock sanitary board.

"6. When the owner or agent has not used reasonable diligence to prevent disease or exposure thereto.

"7. When the owner or agent has not complied with the rules and regulations of the livestock sanitary board with respect to animals condemned.

"8. No compensation or indemnity will be paid for the destruction of any livestock affected with tuberculosis, or other infectious, contagious, communicable, or dangerous disease, unless the entire herd or band of which such affected livestock is a part shall be under the supervision of the livestock sanitary board for the eradication of such disease.

"9. When animals condemned are not destroyed within sixty days after they have been determined to be affected with or exposed to a disease which requires them to be destroyed by order of the livestock sanitary board."

Amending clause

Section 23. Section 46-1909, Revised Codes of Montana, 1947, is amended to read as follows:

Duty of livestock commission to investigate bounty claims.

"46-1909. It shall be the duty of the livestock commission to examine into and investigate every such bounty claim and certificate filed with such commission, and in making such examination and investigation, the commission may require the holder of any such certificate or claim to furnish the commission with such additional evidence or proof with reference thereto as the commission may deem necessary and proper, and such evidence may be either oral or documentary as required by the commission. The livestock commission shall, after making such examination and investigation, indorse on such certificate or claim its approval or disapproval thereof, and if the same or any part thereof be disapproved, such indorsement shall state the reasons for such disapproval. If any such certificate or claim be *approved it shall be processed as provided by law.*"

Amending clause.

Section 24. Section 46-1914, Revised Codes of Montana, 1947, is amended to read as follows:

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Bounty fund—levy authorized to pay bounty claims.

"46-1914. There is hereby created a fund, to be known as the 'bounty fund.' The tax commission, or the department of state whose duty it is to fix tax levies, shall annually prescribe the levy recommended by the livestock commission to be made against livestock of all classes, for the purpose of paying for the destruction of wild animals killed within the state, which tax in any one year shall not exceed one and one-half (1½) mills on a dollar upon the assessed valuation of such livestock, and such moneys so received shall be used and applied only to the payment of claims for the destruction of wild animals and to the administration of the provisions of this act, approved by the livestock commission, and the moneys received for the taxes so levied shall be transmitted annually with other taxes for state purposes to the state treasurer by the county treasurer of each county, and when received by the state treasurer shall be placed to the credit of the bounty fund, and such moneys shall thereafter be paid out on claims approved as aforesaid, in accordance with the law governing the payment of claims, and all moneys in said fund are hereby appropriated for such purposes."

Amending clause.

Section 25. Section 46-2306, Revised Codes of Montana, 1947, is amended to read as follows:

Commission members—compensation.

"46-2306. The members of the commission shall receive no compensation for their services other than the actual amount of traveling expenses actually incurred in respect to the performance of their official duties in attendance at regular or special meetings of the board and ten dollars ($10.00) per diem for each day actually in attendance at such board meetings. The per diem of each member of the board shall be limited to not exceed the amount of five hundred dollars ($500.00) per year, such per diem and expenses to be audited, allowed and paid as herein provided.

Commission shall audit claims paid from state grass conservation fund.

"The commission shall audit all claims, accounts or bills for expenses, per diem, or expenditures incurred by it or its employees. If the commission approves them, they shall be *processed as provided by law and paid from* the state grass conservation fund; provided that the board may by resolution authorize the secretary to audit and certify all expenses, salaries, and expense accounts of the commission, or its employees, and such audit shall be made a part of the commissioners' report to the governor, a copy

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of which shall be sent to all state districts coming under the provisions of this act."

Amending clause.

Section 26. Section 59-540, Revised Codes of Montana, 1947, as enacted by section 4, chapter 66, laws of 1955, is amended to read as follows:

Submitted claims to contain schedule of expenses.

"59-540. Every such person so engaged shall *periodically submit a claim containing* a schedule of expenses and amounts claimed for said period. Said schedule shall show in what capacity such person was engaged each day while away from the department in which said daily duties arose, and shall show expense items of each day in detail, such as the amount of per diem allowance claimed, transportation fare, mileage and other such items."

Amending clause.

Section 27. Section 77-151, Revised Codes of Montana, 1947, is amended to read as follows:

Payment of claims—national guard appropriation.

"77-151. All bills, claims, and demands against the national guard appropriation shall be certified or verified in the manner prescribed by regulations promulgated by the governor, and shall be audited and approved by the adjutant-general and, if allowed, shall be paid from the national guard appropriation; provided, however, that in all cases where the organized militia or any part thereof is called into the service of the state in case of war, riot, insurrection, invasion, breach of the peace, disaster, or in aid of the civil authorities, warrants for allowed pay and expenses for such service shall be drawn upon the general fund of the state treasury and paid out of any moneys in said fund, on the order of the governor."

Amending clause.

Section 28. Section 80-747, Revised Codes of Montana, 1947, is amended to read as follows:

State prison fund.

"80-747. The moneys appropriated by the legislative assembly and the proceeds of the labor of prisoners constitute the state prison fund. The moneys in the state prison fund are applicable to the payment of the expenses of the prison, and salaries. The board cannot contract any debts or incur any liability binding upon the state."

Amending clause.

Section 29. Section 80-748, Revised Codes of Montana, 1947, is amended to read as follows:

Sheriff's expenses for delivering prisoners—payment.

"80-748. Sheriffs delivering prisoners at the state prison must receive all actual expenses necessarily incurred in their transportation, the amount of the expenses in

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each case to be paid out of any moneys in the state treasury appropriated for that purpose, and no further or other compensation must be received by sheriffs for such transportation or services."

Amending clause.

Section 30. Section 82-2212, Revised Codes of Montana, 1947, is amended to read as follows:

Payment of expenses—secretary of state.

"82-2212. The expenses incurred by the secretary of state in carrying into effect the provisions of sections 82-2202 to 82-*2204* inclusive must be paid out of any moneys specially appropriated for the purpose."

Amending clause.

Section 31. Section 93-306, Revised Codes of Montana, 1947, is amended to read as follows:

Traveling expenses—district judge.

"93-306. As soon as his services in connection with the trial or hearing are concluded, the judge shall certify in detail the amount of money necessarily and actually expended by him for his traveling expenses and board and lodging, as above specified, and shall file the claim *with the state to be processed as provided by law.*"

Repealing clause.

Section 32. Section 59-541 as enacted by section 5, chapter 66, laws of 1955, and sections 82-1109, 82-1110, 82-1111, 82-1112, 82-1120, 46-1910 and 46-1911, Revised Codes of Montana, 1947, are repealed.

Section 33. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1961.

CHAPTER 98

An Act to Provide That the Controller Shall be Appointed by the Governor, be Responsible to the Governor and Serve at the Governor's Pleasure and to Delete Reference to the Salary of the State Controller by Amending Sections 82-106 and 82-107, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-106, Revised Codes of Montana, 1947, is amended to read as follows:

"82-106. The office of state controller for the State of

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Montana is hereby created and established. *The state controller shall be appointed by the governor with the advice and consent of the senate. He shall be responsible to the governor and shall serve at the pleasure of the governor.* Said state controller (hereinafter referred to as the controller) shall be a qualified elector of Montana and shall be selected with special reference to his training, experience, ability, and knowledge of the principles and practices of public *finance* and governmental accounting.''

Governor shall appoint state controller.

Qualifications.

Section 2. Section 82-107, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

''82-107. The controller shall take the constitutional oath of office and shall execute to the State of Montana a bond in the penal sum of fifty thousand dollars ($50,000.00), to be approved by the state board of examiners.''

Oath and bond.

Approved March 1, 1961.

CHAPTER 99

An Act Relating to the Qualifications of Election Judges and Election Clerks Prohibiting a Candidate, the Spouse of a Candidate or One Related Within the Second Degree of Consanguinity to a Candidate From Serving as an Election Judge or Election Clerk; Excepting School Elections and Candidates for Precinct Committeeman and Committeewoman; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. No person shall be appointed to serve as an election judge or election clerk who is a candidate, spouse of a candidate or one who is related to a candidate for office at such election within the second degree of consanguinity.

Limitation on appointment of election judges.

Section 2. The provisions of this act shall not apply to school district elections nor to candidates for precinct committeeman and committeewoman.

Exceptions.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 1, 1961.

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CHAPTER 100

An Act to Amend Section 32-2197, Revised Codes of Montana, 1947, as Enacted by Section 94, Chapter 263, Laws of 1955, Relating to Requirement of Drivers to Stop for School Busses Receiving or Discharging School Children Outside of Business or Residence Districts; Requiring Drivers to Stop for School Busses Receiving or Discharging School Children Outside the Limits of a Corporate City or Town; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-2197, Revised Codes of Montana, 1947, as enacted by section 94, chapter 263, laws of 1955, be, and the same is hereby amended to read as follows:

Vehicles must stop for visual signal on school bus.

"32-2197. **Overtaking and passing school bus.** (a) The driver of a vehicle upon a highway outside *the corporate limits of any city or town* upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said bus a visual signal as specified in section 129 (32-21-132) and said driver shall not proceed until such school bus resumes motion, or is signaled by the school bus driver to proceed as the visual signals are no longer actuated.

School busses shall be marked and equipped with visual signals.

"(b) Every bus used for the transportation of school children shall bear upon the front and rear thereof plainly visible signs containing the words 'SCHOOL BUS' in letters not less than eight (8) inches in height, and in addition shall be equipped with visual signals meeting the requirements of section 129 (32-21-132) of this act, which shall be actuated by the driver of said school bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

Other purposes.

"(c) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school all markings thereon indicating 'SCHOOL BUS' shall be covered or concealed.

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When vehicle need not stop.

"(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1961.

CHAPTER 101

An Act to Amend Section 31-147, Revised Codes of Montana, 1947, Relating to Authority of Board to Suspend or Revoke License; Striking the Word 'Revoke' From Title of Section; Authorizing Board to Suspend License or Driving Privilege of Person Who Falsifies Application for License; Authorizing Board to Issue Probationary License to Unsafe Drivers as is Shown by Driving Record; Providing That Board Shall Determine Restrictions for Such Probationary License and Requiring Licensee to Obey Restrictions; Establishing Term of Probation; Requiring Licensee to Surrender All Current Licenses and Authorizing Board to Suspend for Refusal or Neglect to Surrender Such Licenses; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-147, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Board authorized to suspend driver license without hearing—when.

"31-147. **Authority of board to suspend** *license or driving privilege or issue probationary license.* (a) The board is hereby authorized to suspend the license *or driving privilege* of an operator or chauffeur without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

"1. Has committed an offense for which mandatory revocation of license is required upon conviction;

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"2. Has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage;

"3. Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

"4. Is an habitually reckless or negligent driver of a motor vehicle;

"5. Is incompetent to drive a motor vehicle;

"6. Has permitted an unlawful or fraudulent use of such license;

"7. Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation; *or*

"8. Has falsified his date of birth on his application for a drivers license.

Provided board may issue probationary license.

"(b) Provided, however, the board may, in its discretion, and in lieu of such suspension of license or driving privilege, issue a probationary license to an operator or chauffeur, without preliminary hearing, upon a showing by its records or other sufficient evidence that the licensee's driving record is such as would authorize suspension as provided in subsection (a) hereof. Upon issuance of a probationary license the licensee shall be subject to the restrictions set forth thereon. The licensee's driving privilege may be suspended upon conviction, or forfeiture of bail, not vacated, of any traffic violation during the period of such probation. The licensee shall surrender to the board all driver licenses theretofore issued to him before such probationary license shall be issued. His refusal or neglect to surrender such licenses, upon demand, shall be ground for suspending all such licenses. Probationary licenses may be issued for a period not to exceed twelve (12) months.

Notice and hearing after suspension or probation.

"(c) Upon suspending the license of any person *or upon placing such person on probation,* as hereinbefore in this section authorized, the board shall immediately notify the licensee in writing and upon his request shall afford

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him an opportunity for a hearing as early as practical within not to exceed twenty (20) days after receipt of such request in the county wherein the licensee resides unless the board and the licensee agree that such hearing may be held in some other county. Upon such hearing the supervisor or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the board shall either rescind its order of suspension *or probation,* or, good cause appearing therefor, may *affirm, reduce or* extend the *period of probation or* suspension of such license."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1961.

CHAPTER 102

An Act to Amend Section 84-1505 of Replacement Volume 5, of the Revised Codes of Montana, of 1947, Relating to the Assessment, Payment and Collection of the Montana Corporation License Tax by the Montana State Board of Equalization; Specifying the Time of Payment of Tax by Corporations on a Calendar Year Basis and Corporations on a Fiscal Year Basis; Providing for Penalties in Cases of Refusal or Neglect to Make Returns, and in Cases of Erroneous, False or Fraudulent Returns; Providing for Penalties for the Nonpayment of the Corporation License Fee; Providing for Refund; Providing for Levy Upon and Sale of Real and Personal Property for Nonpayment of Corporation License Income Tax; Providing That Actions May be Brought by the Attorney General of Montana at the Request of the Board of Equalization; Providing for an Effective Date of This Act; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-1505 of Replacement Volume 5, of the Revised Codes of Montana, of 1947, be, and the same is hereby amended to read as follows:

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Assessment of corporation tax.

"84-1505. (2300) *(1)* **Assessment of tax—payment —lien of tax.** All assessments shall be made by the state board of equalization, and the several corporations shall be notified of the amounts for which they are respectively liable, on or before the first day of June of each successive year. Payment of the tax assessed shall be made by corporations reporting on a calendar year basis, on or before the fifteenth day of June following the assessment of the tax. Payment of said tax shall be made by corporations operating on a fiscal year basis on or before the fifteenth day of the sixth month following the close of said corporation's fiscal year. In cases of refusal or neglect to make such return, and in cases of erroneous, false, or fraudulent returns, the state board of equalization shall, upon the discovery thereof at any time within five (5) years after said return is due, make a return upon information obtained as provided for in this act, and the assessment made by the state board of equalization shall be paid by such corporation immediately upon notification of the amount of such assessment. If the license fee assessed thereunder shall not be paid on or before the time specified in this act, there shall be added the sum of ten (10%) per cent on the amount of the license fee unpaid, and interest at the rate of one (1%) per cent per month upon said license fee from the time the same becomes due, and the state shall have a lien for the payment of such license fee, penalty, and interest, which said lien shall attach to any and all property owned or possessed within the state by such corporation, which lien may be enforced in the same manner as liens are enforced at law. If the amount of the tax assessed is less than the amount theretofore paid, the corporation is entitled to a refund of the excess. The state board of equalization must return the overpayment to the taxpayer from any money in the suspense account as shown by the records in the office of the state treasurer.

Procedure on failure to pay.

Penalty provided.

State lien on corporation property.

Refund of excess.

Levy and sale to enforce payment.

"(2) Levy upon and sale of property for payment of corporation license taxes. If any tax imposed by this act or any portion of such tax is not paid within sixty (60) days after the same becomes due, the board shall issue a warrant under its official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the corporation owning the same, found within his county, for the pay-

Warrant to issue.

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ment of the amount thereof, with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the board and pay to it the money collected by virtue thereof by a time to be therein specified, not more than sixty (60) days from the date of the warrant. The sheriff shall within five (5) days after the receipt of the warrant, file with the clerk of the district court of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns, the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real property or chattels real of the corporation against whom it is levied in the same manner as a judgment docketed in the office of such clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In the discretion of the board a warrant of like terms, force and effect may be issued and directed to any agent authorized to collect income taxes, and in the execution thereof, such agent shall have the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the board shall have the same remedies to enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment against the taxpayer for the amount of the tax.

Clerk shall enter in judgment docket.

Sheriff shall proceed as on execution.

Other process.

"(3) Action by attorney general. Action may be brought at any time by the attorney general of the state at the instance of the board, in the name of the state to recover the amount of any taxes, penalties and interest due under this act."

Action by attorney general.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

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Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby expressly repealed.

Approved March 1, 1961.

CHAPTER 103

An Act to Amend Section 84-301, Revised Codes of Montana, 1947, as Amended in Section 1, Chapter 45, Laws of 1951; as Amended in Section 1, Chapter 178, Laws of 1951; as Amended in Section 1, Chapter 88, Laws of 1957, Relating to Classification of Property for Taxation, and Providing That Trailers Affixed to the Land on Land Owned, Leased or Under Contract of Purchase by the Trailer Owner, to be Included in Class Four (4); and Containing a Repealing Clause, and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-301, Revised Codes of Montana, 1947, as amended in section 1, chapter 45, laws of 1951; as amended in section 1, chapter 178, laws of 1951; as amended in section 1, chapter 88, laws of 1957, be, and the same is hereby amended to read as follows:

Classification of property for taxation.

"84-301. (1999) **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

"Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

"Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal

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Classification of property for taxation—continued.

property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds, boats and all water craft, harness, saddlery and robes.

"Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith; and all office or hotel furniture and fixtures.

"Class Four. All land, town and city lots, with improvements, *and all trailers affixed to land owned, leased, or under contract of purchase by the trailer owner,* manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five.

"Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms 'moneys and credits' as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

"(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana.

"(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

"Class Six. Property formerly included in this class is now classified by section 84-308 of the Revised Codes of Montana, 1947.

"Class Seven. All property not included in the six preceding classes."

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Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby expressly repealed.

Approved March 1, 1961.

CHAPTER 104

An Act to Amend Section 75-3611, Revised Codes of Montana, 1947, Relating to the Foundation Program; Defining Terms; Providing for Determining Average Number Belonging; Providing for Reopening a Closed School; Providing for Opening a New School; Containing a Repealing Clause; and Fixing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3611, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Pupils—"average number belonging" defined.

Computation.

"75-3611. **Definitions—schedules of financial program.** The term 'average number belonging' or 'ANB' shall mean the average number of regularly enrolled, full-time pupils attending a public school, or attending public schools in a school district as a whole, which average number shall be computed by dividing the sum of the aggregate days of attendance by regularly enrolled pupils and the aggregate days of absence by regularly enrolled pupils during the last completed school year, by the number one hundred eighty (180); provided that attendance for a part of a morning session or part of an afternoon session shall be counted as one-half (½) day's attendance in either case, and, provided further, when any regularly enrolled pupil has been absent, with or without excuse, for more than three (3) consecutive school days in such school year, his absence after the third day and until his return to school shall not be included in the aggregate days of absence. The average number belonging of secondary pupils of a school district or of elementary pupils of a school district does not include the pupils of any high school or of any elementary school which has not been accredited by the state board of education. Pupils of a junior high

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school which has been duly approved and accredited as such by the state board of education are to be deemed secondary pupils for the purpose of computing average number belonging of the district in which the junior high school is situated.

Districts may reopen schools—minimum requirements.

"Any school district may reopen a school which was not in operation the previous year, which such reopening is approved by the county budget board and the state superintendent of public instruction, and when the county superintendent estimates the probable enrollment for such school to be at least five (5), and the parents of at least three (3) of these five (5) children petition for such reopening; such approved reopened school shall be eligible for county and state aid on its foundation program. *Any school district which opens a new school shall comply with at least the minimum requirements for reopening a closed school as herein provided, and no foundation program shall be established for any new school not meeting the minimum requirements for opening.*

Minimum requirements apply to new schools.

Allowance based on estimated increase for budget purposes.

"Should a school district anticipate an increase in ANB, above the normal statewide increase of the past year, due to the closing of any private or public school in the district or in neighboring districts, such district shall be allowed an increase in ANB for budget purposes, based on an estimate arrived at by the district superintendent, board and county superintendent and approved by the state superintendent.

"Minimum foundation program" and "foundation program."

"The terms, 'minimum foundation program' and 'foundation program,' shall mean the amount required to operate and maintain an adequate and efficient school, as fixed and established by the schedules of minimum operating revenues set forth in section 75-3612 hereof.

"Isolated school."

"The term 'isolated school,' shall mean an elementary school having an ANB of *eight (8) or less* pupils, the maintenance and operation of which as an isolated school has been approved in the manner hereinafter provided in section 75-3617; and the term, 'isolated high school,' shall mean a high school having an ANB of *twenty-four (24) or less* pupils, the maintenance and operation of which as an isolated school has been approved in the manner hereinafter provided in section 75-3617.

"Isolated high school."

"Non-isolated school."

"The term, 'non-isolated school,' shall mean an elemen-

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tary school having an ANB of less than nine (9) pupils, which has not been approved as an isolated school; and the term, 'non-isolated high school,' shall mean a high school having an ANB of less than twenty (20) pupils, which has not been approved as an isolated high school."

"Non-isolated high school."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 1, 1961.

CHAPTER 105

An Act to Amend Section 75-1632, Revised Codes of Montana, 1947, Relating to the Duties of Boards of Trustees of School Districts; Making Trustees and Janitors Responsible for Proper Maintenance of Privies, Outhouses and Toilets; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1632, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duties of trustees—school board.

"75-1632. (1015) **Duties of trustees.** Every school board unless otherwise specially provided by law shall have power and it shall be its duty:

"1. To prescribe and enforce rules not inconsistent with law, or those prescribed by the superintendent of public instruction for their own government of schools under their supervision.

"2. To employ or discharge teachers, mechanics or laborers, and to fix and order paid their wages; provided, that no teacher shall be employed except under resolution agreed to by a majority of the board of trustees at a special or regular meeting; nor unless such teacher be the holder of a legal teacher's certificate in full force and effect. All contracts of employment of teachers, authorized by proper resolution of a board of trustees, shall be in writing and executed in duplicate by the chairman and clerk of the board, for the district and by the teacher.

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Duties of trustees—school board—continued.

"3. To determine the rate of tuition of nonresident pupils.

"4. To fix the compensation of the clerk.

"5. To enforce the rules and regulations of the superintendent of public instruction for the government of schools, pupils, and teachers and to enforce the course of study.

"6. To provide for school furniture and for everything needed in the schoolhouse or for the use of the school board.

"7. To repair and insure schoolhouses and to rent, lease and let to such persons or entities as the board may deem proper, the grade school halls, gymnasium and buildings and part thereof for such time and rental as the board may designate. All rentals shall be paid to the county treasurer for the credit of the school district.

"8. To purchase, acquire, sell and dispose of plots or parcels of land to be used as sites for schoolhouses, school dormitories and other school buildings, and for other purposes in connection with the schools in the district; to build, purchase or otherwise acquire schoolhouses, school dormitories and other buildings necessary in the operation of schools of the district, and to sell and dispose of the same; provided, that they shall not build or remove schoolhouses or dormitories, nor purchase, sell or locate school sites unless directed so to do by a majority of the electors of the district voting at an election held in the district for that purpose, and such election shall be conducted and votes canvassed in the same manner as at the annual election of school officers, and notice thereof shall be given by the clerk by posting three (3) notices in three (3) public places in the district at least ten (10) days prior to such election, which notices shall specify the time, place, and purpose of such election. Provided, further, that this subdivision shall not be so construed as to prevent the board of trustees from purchasing one (1) or more options for a school site.

"9. To hold in trust for their district all real or personal property for the benefit of the school thereof.

"10. To suspend or expel pupils from school who refuse to obey the rules thereof, and to exclude from school,

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Duties of trustees— school board— continued.

children under six (6) years of age where the interest of the school requires such exclusion.

"11. To provide clothing and medical aid for indigent children when it shall be made to appear that such aid is needed; and when deemed advisable to employ a physician or registered nurse to make inspection into the sanitary conditions of the school and the general health conditions of each pupil, and to make a full, detailed report to the board of trustees. The clerk of the district shall furnish immediately to each parent or guardian a copy of such portion of the above mentioned report as pertains to his child or ward.

"12. To require pupils to be furnished with suitable books as a condition of membership in school.

"13. To exclude from school and school libraries all books, tracts, papers and other publications of immoral and pernicious nature.

"14. To require teachers to conform to the law.

"15. To make an annual report, as required by law, to the county superintendent on or before the first day of August in each year, in the manner and form and on the blanks prescribed and furnished by the superintendent of public instruction.

"16. To make a report directly to the superintendent of public instruction whenever instructed by him to do so.

"17. To determine what branches, if any, in addition to those required by law, shall be taught in any school in the district, subject to the approval of the county superintendent in districts of the third class.

"18. To visit every school in their district at least once in each term, and to examine carefully into its management, conditions, and needs. This clause applies to each of the trustees.

"19. To provide separate privies or outhouses for the use of the sexes at all schoolhouses, where the same do not exist, and to see that the same are kept in good repair, and in a clean condition. Such privies or outhouses must be located and built in such manner as to secure privacy. In all cases where there is no fence dividing the play

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Duties of trustees—school board—continued.

yards of the sexes, the privies or outhouses herein named shall be separate and distinct buildings, and situated at least twenty (20) feet apart, and to require that all *(matter deleted)* janitors use due care in keeping all toilets in good repair and in clean condition and free from obscenity; provided, that any trustee or trustees, janitor, or janitors, failing to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars ($100.00), or imprisoned in the county jail not exceeding ninety (90) days, or both such fine and imprisonment in the discretion of the court.

"20. To allow pupils residing in other districts to attend school in the district of which they have charge, if in their judgment there is sufficient room.

"21. To procure, by purchase or donation, and to cause to be displayed daily in suitable weather, an American flag, with accompanying necessary fixtures, for each and every schoolhouse in their respective districts. Said flags shall be of dimensions not less than four (4) by six (6) feet, and shall be made from durable material. The school trustees are hereby authorized and empowered to use such portion of the school funds as remain in their hands, and which is not otherwise appropriated, for the purchase and erection of fixtures.

"22. To close school at their discretion during the annual session of the state teachers' association, and to allow teachers to attend the same without loss of salary.

"23. To provide foods, cooks, janitor services and equipment for school lunches when deemed advisable by the board. Governed by its own judgment, the board may impose a money charge, produce or services from the pupils desiring to and participating in the program of school lunches.

"24. To provide for a system of bookkeeping and annual auditing of extracurricular funds; such bookkeeping system to be recommended by the state examiner and such audit to be made by a qualified accountant or by the state examiner, if so requested. If the audit is made by the state examiner, then, there shall upon completion of the audit, be paid a fee of sixty dollars ($60.00) per day per man, into the state treasury, and the state treasurer shall ac-

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credit such payment to the special examiner's fund. A certified copy of such audit shall be filed with the county superintendent of schools, and notice of such filing and the availability of the audit to public inspection, shall be published by said superintendent in the next publication of a newspaper published within the district, or, in case there be no paper published within the district, in a newspaper published within the county, if any, and if none within the county then in the nearest newspaper published in an adjoining county and payment of such publication and audit shall be made from the extracurricular funds or from school district funds, as the board of trustees may decide.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1961.

CHAPTER 106

An Act to Amend Sections 59-801 and 59-802 of the Revised Codes of Montana, 1947, Relating to Mileage to be Paid to State Officers, Employees and Other Classes of Persons; to Provide for an Increase in the Mileage Payments to Members of the Legislative Assembly, State Officers, Township Officers, Jurors, Witnesses, County Agents, State or County Officers and Employees, and All Other Persons, Except Sheriffs, Who May Be Entitled to Mileage; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 59-801, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Rate of mileage allowed state officers, etc.

''Section 59-801. (4884) **Mileage of all officers.** Members of the legislative assembly, state officers, township officers, jurors, witnesses, county agents, and all other persons, except sheriffs, who may be entitled to mileage, when using their own automobiles in the performance of official duties, shall be entitled to collect mileage at a rate of *eight cents (8¢)* per mile for the distance

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actually traveled, and no more unless otherwise specifically provided by law; provided, however, that nothing herein contained shall be construed as affecting the validity of section 43-310."

Amending clause.

Section 2. That section 59-802, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"Section 59-802. (4884.1) **Same—liability of approving board for exceeding authorized amount—use of railroad or bus required if suitable.** Whenever it shall be necessary for any state or county officer or employee to use his own automobile in the performance of any official duty where traveling expense is allowed by law, such officer or employee, except sheriffs, shall receive *eight cents (8¢)* per mile for each mile necessarily traveled unless otherwise specifically provided by law and the members of any lawful approving board shall be liable upon their official bonds, for any claim which they may allow in excess of such amount; provided, however, that nothing herein contained shall be construed as affecting the validity of section 43-310. Provided, further, that in no case shall an automobile be used as herein provided if suitable transportation can be had by railroad or bus."

Approving board liable for exceeding authorized amount.

Mileage allowed for use of private automobiles.

Use of other transportation.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1961.

CHAPTER 107

An Act to Amend Section 69-2701, Revised Codes of Montana, 1947, Enacted as Section 1, Chapter 273, Session Laws of 1959, Relating to the Definition and Prohibition of Fireworks to Provide That it Will be Unlawful for Any Individual Under Twenty-one (21) Years of Age to Possess for Sale, Sell or Offer to Sell, Within the State of Montana, Permissible Fireworks as Defined; to Provide Further That it Shall be Unlawful for Wholesalers to Sell or Offer to Sell Fireworks, Except as Defined, Within the State of Montana; and Providing an Effective Date.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-2701 of Revised Codes of Montana, 1947, enacted as section 1, chapter 273, session laws of 1959, is amended to read as follows:

"69-2701. **Fireworks prohibited and defined for the purposes of this act.** a. It shall be unlawful to sell, transport or use any fireworks within the State of Montana except as hereinafter provided.

Prohibited "fireworks" defined.

"b. The term 'fireworks' shall mean and include any combustible, or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include sky rockets, Roman candles, Daygo bombs, blank cartridges, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sparklers or other fireworks of like construction and any fireworks containing any explosive of flammable compound or any tablets or other device containing any explosive substance. Nothing in this law shall be construed as applying to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap, and to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, nor applying to the military or navy forces of the United States or of this state, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, or theatrical, or athletic events.

Exceptions.

Permissible fireworks enumerated.

"c. It shall be lawful for any individual, firm, partnership, corporation or association to possess for sale within the state, sell or offer for sale, at retail, or use, within the State of Montana, the permissible fireworks herewith enumerated.

"Permissible fireworks shall include dangerous articles and, more specifically, shall include and be limited to the following, but specifically excluding sky rockets, Roman candles and Daygo bombs:

"(1) Helicopter type spinners, total pyrotechnic composition not to exceed twenty grams each in weight;

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"(2) Cylindrical fountains, total pyrotechnic composition not to exceed twenty-five grams each in weight. The inside tube diameter shall not exceed ¾ inch;

"(3) Cone fountains, total pyrotechnic composition not to exceed fifty grams each in weight;

"(4) Wheels, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of driver tubes shall not be over ½ inch;

"(5) Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight;

"(6) Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate shall not exceed five grams;

"(7) Firecrackers with soft casings, the external dimensions of which do not exceed one and one-half inches in length or one-quarter inch in diameter, total pyrotechnic composition not to exceed two grains each in weight.

"(8) Whistles without report, total pyrotechnic composition not to exceed forty grams each in weight;

Seller must be 21 years of age.

"It shall be unlawful for any individual under the age of twenty-one (21) to possess for sale, sell or offer for sale, within the State of Montana, permissive fireworks herein enumerated.

Wholesaler may transport prohibited fireworks for sale out of state.

"It shall be unlawful for any wholesaler to sell or offer for sale, within the State of Montana fireworks except as herein defined. It shall be lawful for said wholesalers, however, to transport said fireworks within the State of Montana for sale outside of the State of Montana.

Limited time for retail sales.

"d. No person, firm or corporation shall offer fireworks of any kind as defined herein for sale at retail before the 24th day of June and after the 5th day of July.

Discharge on state land prohibited.

"e. It shall be unlawful for any individual, firm, partnership or corporation to discharge or cause to be discharged any pyrotechnics of any description whatever within the exterior boundaries of any state forest, or state park, or state recreation area."

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Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1961.

CHAPTER 108

An Act to Amend Section 59-538 of the Revised Codes of Montana, 1947, Relating to the Per Diem Allowance Paid to Persons in the State Service for Time Engaged in Travel; to Provide That There Shall be Paid for the Time Engaged in Travel, Eight Dollars ($8.00) Per Day for Travel Within the State and Eleven Dollars ($11.00) Per Day for Travel Outside the State.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 59-538 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Expenses of persons in state service—per diem allowance.

"59-538. **Expenses of persons in state service—per diem allowance.** Every person engaged in any service in every department of state, inclusive of persons in appointive positions, or positions created by law, whose duties consist of full or partial time in traveling to perform any service for the state under monthly or yearly salary, or who may be sent by any authorized executive of any department of the state upon a mission in performance of any clerical work, supervisory or extension work or otherwise, of every kind and character, shall be allowed, for the time engaged in such travel, *eight dollars ($8.00)* per day for such travel within the State of Montana and *eleven dollars ($11.00)* per day for such travel outside the State of Montana; provided, that the provisions of this act shall not apply to persons holding offices specifically provided for in section 93-305, Revised Codes of Montana, 1947, or section 93-313, Revised Codes of Montana, 1947; provided that nothing herein contained shall be construed as affecting the validity of section 43-310, Revised Codes of Montana, 1947; and provided further that the provisions of this act shall not apply to the elective state public officers of the State of Montana who shall in lieu thereof be authorized actual and necessary expenses while engaged in state service away from Helena, not to exceed fifteen dollars ($15.00) per day."

Excepted state officers.

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Section 2. This act shall be in full force and effect immediately upon approval. Effective immediately.

Approved March 1, 1961.

CHAPTER 109

An Act to Amend Section 32-2142 (2) Revised Codes of Montana, 1947, as Enacted by Section 39, Chapter 263, Laws of 1955, as Amended by Section 1, Chapter 194, Laws of 1957, Relating to Persons Operating Motor Vehicles While Under the Influence of Intoxicating Liquor or of Drugs; Providing for the Use of Chemical Analysis of Blood, Urine, Breath or Other Bodily Substance to Measure Degree of Intoxication of Drivers; Providing That Milligrams of Alcohol Per One Hundred (100) Milligrams of Blood Shall be Basis of Per Cent of Alcohol in the Blood; Providing Concurrent Jurisdiction Over Violations Occurring Within the Limits of Municipalities, Pertaining, Respectively to Driving While Intoxicated; Providing for the Imposition of Fines and Penalties by Municipalities for Such Violations; Deleting That Portion of Section Which Authorizes the Board to Issue Restricted License; Repealing Section 32-2142 (1) as Enacted by Section 39, Chapter 263, Laws of 1955, as Amended by Section 3, Chapter 201, Laws of 1957 and All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 32-2142 (2) as enacted by section 39, chapter 263, laws of 1955, as amended by section 1, chapter 194, laws of 1957, be, and the same is hereby amended to read as follows: Amending clause.

"32-2142. **Persons under the influence of intoxicating liquor or of drugs.** (a) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any motor vehicle upon the highways of this state. Unlawful to drive under influence of intoxicating liquor.

"(b) In any criminal prosecution for a violation of paragraph (a) of this section relating to driving a vehicle Presumptions on blood analysis.

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while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, *urine, breath or other bodily substance,* shall give rise to the following presumptions:

"1. If there was at that time 0.05 per cent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor;

"2. If there was at that time in excess of 0.05 per cent but less than 0.15 per cent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant;

"3. If there was at that time 0.15 per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor;

Basis of per cent of alcohol.

"4. *Per cent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred (100) milligrams of blood;*

Other evidence not excluded.

"5. The foregoing provisions of paragraph (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

Unlawful to drive under influence of narcotic drug.

"(c) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is an habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle to drive a motor vehicle within this state. The fact that any person charged with a violation of this paragraph is or has been entitled to use such a drug under the laws of this state shall not constitute a defense against any charge of violating this paragraph.

Penalty on conviction.

"(d) Every person who is convicted of a violation of this section shall be punished by imprisonment in the county or city jail for not more than six (6) months or

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by a fine of not less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00) or by both such fine and imprisonment. On a second conviction he shall be punished by imprisonment in the county or city jail for not less than ten (10) days nor more than six (6) months, to which may be added, at the discretion of the court a fine of not less than three hundred dollars ($300.00) nor more than five hundred dollars ($500.00). On the third or subsequent conviction he shall be punished by imprisonment for a term of not less than thirty (30) days nor more than one (1) year, to which may be added at the discretion of the court a fine of not less than five hundred *dollars* ($500.00) nor more than one thousand dollars ($1,000.00).

Municipality authorized to adopt as ordinance.

"(e) Each and every municipality in this state is hereby given authority to enact the foregoing paragraphs (a), (b), (c) and (d) of this section, with the word 'state' in the first sentence of paragraphs (a) and (c) changed in each instance to read 'municipality,' as an ordinance, and is hereby given jurisdiction of the enforcement of said ordinance, and of the imposition of the fines and penalties therein provided.

Revocation of license on conviction.

"(f) The board shall forthwith revoke the license or permit to drive and operating privilege and any nonresident operating privilege of any person *upon receiving a record of such person's conviction or forfeiture of bail not vacated,* under this section."

Repealing clause.

Section 2. That section 32-2142 (1), as enacted by section 39, chapter 263, laws of 1955 as amended by section 3, chapter 201, laws of 1957, and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1961.

CHAPTER 110

An Act to Amend Section 31-124, Revised Codes of Montana, 1947, Relating to Definition of Suspension, Revocation and Cancellation; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That section 31-124, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Suspension defined.

"31-124. **Suspension, revocation and cancellation.** (a) Suspension means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of such suspension.

Revocation defined.

"(b) Revocation means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored. An application for a new license may be presented and acted upon by the board after the expiration *of the period of such revocation or suspension.*

Cancellation defined.

"(c) Cancellation means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1961.

CHAPTER 111

An Act to Validate and Confirm Sales or Dispositions Heretofore Made or Attempted to be Made by Any County of Any Property in Which Such County Had or Claimed Any Right, Title or Interest, and All Instruments of Transfer or Conveyance Heretofore Made or Executed by Any County, and to Declare That All Such Sales, Dispositions and Instruments Have Vested in the Grantee or Purchaser, as of the Date Thereof, Such Right, Title and Interest as is Purported to be Transferred by Such County in and to the Property Described or Covered; Containing a Repealing Clause and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

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Validation of county sales.

Section 1. All sales or dispositions heretofore made or attempted to be made by any county of any property in which such county had or claimed any right, title or interest are hereby validated and confirmed, and all instruments of transfer or conveyance heretofore made or executed by any county are hereby validated and confirmed, and all such sales, dispositions and instruments are hereby declared to have vested in the grantee or purchaser, as of the date thereof, such right, title, estate and interest as is purported to be transferred by such county in and to the property described or covered.

Repealing clause

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1961.

CHAPTER 112

An Act to Amend Section 16-2012 of the Revised Codes of Montana, 1947, Relating to Bonds Issued by Counties; and Containing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-2012 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Authorized form of county bonds.

"16-2012. (4630.5) **Form of bonds.** All bonds hereafter issued by any county shall be either amortization bonds or serial bonds, and all things being equal amortization bonds shall be issued in preference to serial bonds, otherwise serial bonds may be issued.

"Amortization bonds" defined.

"The term 'amortization bonds,' as used in this act, is hereby defined as meaning that form of bond on which a part of the principal is required to be paid each time interest becomes due and payable, which part payment of principal increases with each following installment in the same amount the interest payment decreases, so that the combined amount payable on principal and interest is the same on each interest payment date; provided, however, that the final payment may vary in amount from

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the other payments to the extent resulting from disregarding fractional cents in the other payments.

"Serial bonds" defined.

"The term 'serial bonds,' as used in this act, is hereby defined as being a bond issue payable in equal annual installments, one (1) installment consisting of one (1) or more bonds, becoming due and payable each year, the amount to be paid and redeemed each year being determined by dividing the total amount of the bonds to be issued by the total number of years the issue is to run, so that the total amount of principal to be paid each year the bonds are to run will be the same; *provided, however, that the installments becoming due and payable the first year, or the first and second years, may vary in amount from the others to the extent resulting from fixing the amounts of each bond of the other installments at one hundred dollars ($100.00), five hundred dollars ($500.00) or one thousand dollars ($1,000.00) as may be determined by the board of county commissioners.*"

Installments may vary in amount.

Effective immediately.

Section 2. This act shall be in full force and effect on and after its passage and approval.

Approved March 2, 1961.

CHAPTER 113

An Act to Provide That the State Stock Inspector or Any Other Authorized Person May Seize Hide or Hides When a Brand Has Been Mutilated or Ownership Cannot be Determined; to Provide for Sale of the Seized Hide or Hides; to Provide for Disposition of the Proceeds Therefrom; and to Provide for the Rightful Owner to Make a Claim Against Said Proceeds.

Be it enacted by the Legislative Assembly of the State of Montana:

Authority of inspector to seize hides.

Section 1. A state stock inspector or any other officer having authority to make an inspection of any slaughtered beef, veal and/or the hide of any such beef or veal, shall have the authority to seize and hold said hide or hides thereof, when upon inspection such officer finds that the brand is so altered, obliterated or defaced that the original brand cannot be determined by a reasonable inspection, or finds that ownership cannot be established by the brand thereon or by other satisfactory proof.

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Authority to sell unidentified hides.

If within fifteen (15) days after the seizure of the hide or hides, proof of ownership cannot be established either by brand, bill of sale or otherwise, said officer may sell at the best available price the hide or hides and remit the proceeds, less the cost of processing, storing and selling to the Montana livestock commission together with a full report of his investigation; a statement of the reason for the seizure and sale together with any tendered proof of ownership of any party. Said proceeds shall be deposited by the livestock commission with the state treasurer and credited to the stock estray fund, where it shall be subject to claim by any party showing proper proof of ownership in the same manner and for the same length of time as is provided by law for the making of claims against the said fund.

Proceeds credited to stock estray fund—subject to claim.

Approved March 2, 1961.

CHAPTER 114

An Act to Amend Section 75-2201, Revised Codes of Montana, 1947, and to Amend Section 75-2203, Revised Codes of Montana, 1947, Relating to the School Day and School Year; Establishing One Hundred Eighty Days Minimum Per School Year; Requiring School Day to Meet Requirements; Providing for Forfeiting of Interest and Income Funds by School Districts Not Meeting Requirements.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-2201, Revised Codes of Montana, 1947, be, and the same is, hereby amended to read as follows:

Length of school day.

"75-2201. (1059) **School day.** The school day shall be *a pupil instruction day of not less than* six hours in length *for grades four through twelve inclusive,* that it be not less than four hours *in length* in the lowest primary grades, *and not less than two hours in length for kindergartens; provided that in emergencies a lesser number of hours may be approved by the state board of education.*"

Amending clause.

Section 2. That section 75-2203, Revised Codes of Montana, 1947, be, and the same is, hereby amended to read as follows:

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Length of school year.

"75-2203. (1061) **School year.** The school year shall begin on the first day of July and end on the thirtieth day of June; provided, that in all districts the school shall be in session *for a period of at least one hundred eighty (180) days* during any school year; provided, further, that any school district which shall fail to maintain a free school for *at least one hundred eighty (180) such days* during the next preceding year, or any school district that shall fail to make its annual report to the county superintendent, as provided by law, on or before August first, of each year, shall not be entitled to receive any apportionment of any school moneys from the state interest and income funds. Any and all such moneys forfeited by any school district shall be apportioned by the county superintendent to other school districts of his county."

Forfeit of school moneys.

Approved March 2, 1961.

CHAPTER 115

An Act to Amend Section 66-816, Revised Codes of Montana, 1947, Pertaining to Renewal of Licenses and Certificates of Cosmetologists by Providing for a Penalty for Late Renewal.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-816, Revised Codes of Montana, 1947, is hereby amended to read as follows:

One-year licenses and certificates—cosmetologists.

"66-816. (3228.16) **Licenses and certificates shall be issued for no longer than one year.** All licenses and certificates shall expire on the 31st day of December next succeeding unless renewed for the next year. Licenses and certificates may be renewed by application made prior to the 31st day of December of each year, and the payment of a required renewal fee. Expired licenses and certificates may be renewed under special rules adopted by the board.

Fee for renewal.

"A fee of two dollars and fifty cents ($2.50) shall be charged in addition to other fees fixed by law for renewal applications of licenses and certificates made after the 31st day of December of each year, said board shall notify

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all license holders of expiration date of license not less than thirty (30) days before such expiration date, and call attention to penalty imposed for failure to renew license by date of expiration.''

Notice of expiration.

Approved March 2, 1961.

CHAPTER 116

An Act to Amend Section 25-102, Revised Codes of Montana, 1947, Relating to Fees to be Paid to the Secretary of State; to Provide for an Increase, in Certain Cases, of Fees to be Paid to the Secretary of State for Issuing Certificates, Filing Documents, Recording Documents, Affixing Certificates and Seals and Performing Other Services.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 25-102, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

''25-102. (145) **Fees of secretary of state.** The secretary of state, for services performed in his office, must charge and collect the following fees:

Fees of secretary of state for services performed in office.

''1. For each copy of any law, resolution or record or other document or paper on file in his office, *forty cents* per folio, *or, if the copy is made by any process of reproduction by photographic, photostatic or similar process, the fee shall be seventy-five cents per page or fraction thereof.*

''2. For affixing certificate and seal, *two dollars, except that certificates of good standing and certificates of the secretary of state relative to the corporate character and capacity of a corporation pursuant to section 15-117 shall be five dollars each.*

''3. For issuing each certificate of incorporation and each certificate of increase of capital stock, three dollars.

''4. For recording and filing each certificate of incorporation and each certificate of increase of capital stock, the following amounts shall be charged:

''Amounts up to one hundred thousand dollars, one dollar per thousand dollars.

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Fees of secretary of state—continued.

"Additional from one hundred thousand dollars, to two hundred and fifty thousand dollars, eighty cents per thousand dollars.

"Additional from two hundred and fifty thousand dollars to five hundred thousand dollars, sixty cents per thousand dollars.

"Additional from five hundred thousand dollars to one million dollars, forty cents per thousand dollars.

"Additional over one million dollars, twenty cents per thousand dollars.

"Providing, that no fee for filing any articles of incorporation or increase of capital stock shall be less than fifty dollars except those enumerated in the next subdivision, which do not have capital stock and are not organized for the purpose of profit.

"*Fees for an increase of capital stock shall be computed on the amount of increase at the same rate as for original incorporation for the amount of the increase.*

"5. For all services in connection with the issuance of certificate, filing and recording of each of the following, whether foreign or domestic, *forty dollars, plus two dollars for certifying a copy of the articles so filed, when required for filing in the office of the county clerk:* religious societies, churches, organizations for religious purposes, hospitals, lyceums, musical and scientific societies, libraries, benevolent and fraternal societies, social clubs, agricultural societies, stock growers' associations, grazing associations and other associations of like character, including local, independent and subordinate organizations, as well as state, supervisory, governing and grand organizations, and bodies of any such associations, societies or orders, or for the purpose of establishing public or private charities, or both. Provided, however, that the above enumerated organizations do not have capital stock and are not organized for the purpose of profit.

"6. For issuing each certificate of decrease of capital stock, *twenty* dollars.

"7. For recording and filing each certificate of decrease of capital stock, *ten* dollars.

"8. For issuing each certificate of continuance of corporate existence, ten dollars.

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Fees of secretary of state—continued.

"9. For recording and filing each certificate of continuance of corporate existence, the following amounts shall be charged:

"Amounts up to one hundred thousand dollars, fifty cents per thousand dollars.

"Additional from one hundred thousand dollars to two hundred and fifty thousand dollars, forty cents per thousand dollars.

"Additional from two hundred and fifty thousand dollars to five hundred thousand dollars, thirty cents per thousand dollars.

"Additional from five hundred thousand dollars to one million dollars, twenty cents per thousand dollars.

"Additional over one million dollars, ten cents per thousand dollars.

"Providing, that no fee for filing any certificate of continuance of corporate existence shall be less than twenty-five dollars, except that corporations enumerated in subdivision five of this section shall pay only for the certificate of continuance provided in subdivision eight of this section, when extending their corporate existence for a term of years, or changing their corporate existence from a term of years, or continual or perpetual succession to perpetual existence.

"10. For recording and filing each notice of removal of place of business, each certificate of change of name, or each certificate making capital stock assessable, *ten* dollars, *and for issuing a certificate thereon, five dollars.*

"11. For filing each notice of appointment of agent, *amendment to articles of incorporation, change of agent, change of principle place of business, or notice of withdrawal of a foreign corporation,* five dollars.

"12. For filing each annual statement *or report* of any foreign corporation, five dollars.

"13. For receiving and recording each official bond, *ten* dollars.

"14. For each commission or other document, signed by the governor, and attested by the secretary of state

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Fees of secretary of state—continued.

(pardon and military commissions excepted), five dollars.

"15. *For filing the annual report required under section 15-811 by domestic corporations, three dollars.*

"16. For filing each trade mark, five dollars; *for filing and recording each assignment of a trade mark, five dollars;* and for issuing each certificate of record, *five dollars.*

"17. For *filing and* recording miscellaneous papers, records, or other documents, *five dollars.*

"18. For filing *and recording* any other paper not otherwise herein provided for, *five dollars.* When a copy of any law, resolution or record or other document or paper on file in the office of the secretary of state is presented for comparison and certification, *ten* cents per folio must be charged and collected for proofreading the same. That no member of the legislative assembly, or state or county officer, can be charged for any search relative to matters appertaining to the duties of his office; nor must he be charged any fee for a certified copy of any law or resolution passed by the legislative assembly relative to his official duties. Fees must be collected in advance, and when collected by the secretary of state, must be paid to the state treasurer at the end of each quarter, as provided in the constitution.

"19. For filing and recording a certificate or decree of dissolution, five dollars."

Approved March 2, 1961.

CHAPTER 117

An Act to Amend Section 14-127, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State by Credit Unions From Five Dollars ($5.00) to Forty Dollars ($40.00); to Amend Section 14-201, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State for Issuing a License to Commissioners to Open Books for Subscription of a Cooperative Association From Five Dollars ($5.00) to Twenty Dollars ($20.00); to Amend Section 14-204, Re-

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vised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State for Issuing a Certificate of Complete Organization of a Cooperative Association From Five Dollars ($5.00) to Twenty Dollars ($20.00) and to Increase the Fees Paid to the Secretary of State for Filing an Amendment and Issuing a Certificate of Amendment to Articles of Incorporation of a Cooperative Association From Five Dollars ($5.00) to Ten Dollars ($10.00); to Amend Section 14-422, Revised Codes of Montana, 1947, to Increase Fees Paid to the Secretary of State for Filing Articles of Incorporation of a Cooperative Marketing Association From Five Dollars ($5.00) to Forty Dollars ($40.00) and for Filing an Amendment to the Articles From Two and 50/100 Dollars ($2.50) to Ten Dollars ($10.00); to Amend Section 14-527, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State by Rural Electric and Telephone Cooperatives for Filing Articles of Incorporation, From Five Dollars ($5.00) to Forty Dollars ($40.00) and for All Other Filings, From Five Dollars ($5.00) to Ten Dollars ($10.00); to Amend Section 15-1801, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State for Filing Certificates of Consolidation or Merger From Five Dollars ($5.00) to Fifteen Dollars ($15.00); to Amend Section 15-1901, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State for Filing Certificates of Consolidation or Merger From Five Dollars ($5.00) to Fifteen Dollars ($15.00); to Amend Section 16-1303, Revised Codes of Montana, 1947, to Provide That County Farm Bureaus Organized as Corporations Shall Pay Corporate Filing and Recording Fees to the Secretary of State; to Amend Section 25-110, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State by Certain water Users' Associations From Ten Dollars ($10.00) to Forty Dollars ($40.00); to Amend Section 53-204, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State for Service of Summons or Process From Two Dollars ($2.00) to Five Dollars ($5.00); to Amend Section 53-205, Revised Codes of Montana, 1947, by Increasing the Fee to be Taxed as Costs From Two Dollars ($2.00) to Five Dollars ($5.00); to Amend Section 56-113, Revised Codes of Montana, 1947, to In-

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crease the Fees Paid to the Secretary of State for Certificates of Official Character of Notaries Public From One Dollar ($1.00) to Two Dollars ($2.00); to Amend Section 65-213, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State for Statements of Trust Receipt Financing From One Dollar ($1.00) to Three Dollars ($3.00); to Amend Section 72-306, Revised Codes of Montana, 1947, to Increase the Fees Paid to the Secretary of State for Noting Declarations Relative to Certain Contracts in the Margin of the Record From One ($1.00) to Two Dollars ($2.00); to Amend Section 84-1515, Revised Codes of Montana, 1947, to Establish a Fee for Filing Applications for Reviver and for Issuing a Certificate of Reviver by the Secretary of State; to Amend Section 85-103 Revised Codes of Montana, 1947, by Providing That the Fee for Filing and Recording a Trade Mark or Name Shall be as Provided in Section 25-102, Revised Codes of Montana, 1947; to Amend Section 93-3009, Revised Codes of Montana, 1947, to Increase the Fee Paid to the Secretary of State for Service of Process; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 14-127, Revised Codes of Montana, 1947 is amended to read as follows:

Disposition of fees paid by credit unions.

"14-127. (6109.38) **Disposal of fees—fee for filing and recording articles of incorporation.** All fees and expenses collected by the state examiner and ex-officio superintendent of banks from credit unions for examination shall be deposited with the state treasurer for the credit of the general fund. The secretary of state shall charge a flat fee of *forty dollars ($40.00)* for filing and recording the articles of incorporation of credit unions, *and issuing the certificate of incorporation thereon,* which fee shall be in lieu of *all* other filing fees."

Amending clause.

Section 2. Section 14-201, Revised Codes of Montana, 1947, is amended to read as follows:

Requirements for incorporation of cooperative associations.

"14-201. (6375) **Incorporation of cooperative associations.** Whenever any number of persons, not less than three, nor more than seven, may desire to become incorporated as a cooperative association for the purpose of trade, or of prosecuting any branch of industry, or the purchase

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and distribution of commodities for consumption, or in the borrowing or lending of money among members for industrial purposes, they shall make a statement to that effect under their hands, duly acknowledged by a notary public, in the manner provided for the acknowledgement of deeds, setting forth the name of the proposed corporation, its capital stock, its location, and duration of the association, and the particular branch or branches of industry which they intend to prosecute, which statement shall be filed in the office of the secretary of state as the articles of incorporation of the association. The secretary of state shall thereupon issue to such persons a license as commissioners to open books for subscription to the capital stock of such corporation, at such time and place as they may determine, for which he shall receive the fee of *twenty dollars ($20.00).*"

License fee.

Section 3. Section 14-204, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"14-204. (6378) **Certificate of incorporation—amendment of articles of incorporation.** The commissioners shall make a full report of their proceedings, including therein a copy of the notice provided for in the preceding section, a copy of the subscription list, a copy of the by-laws adopted by the association, and the names of the directors elected and their respective terms of office, which report shall be sworn to by at least a majority of the commissioners, and shall be filed in the office of the secretary of state. The secretary of state shall thereupon issue a certificate of the complete organization of the association, making a part thereof a copy of all papers filed in his office, in and about the organization, and duly authenticated, under his hand and seal of the state, for which he shall receive the sum of *twenty dollars ($20.00),* and thereupon a certified copy of said certificate shall be filed in the office of the county clerk in which the principal office of the association is located. Upon the filing of said certified copy, the association shall be deemed to be fully organized and may proceed to business. At any time after the filing of the certificate of complete organization, the articles of incorporation may be amended. Any amendment of the articles of incorporation shall first be approved by two-thirds of the directors and then adopted by a vote of not less than two-thirds of those stockholders

Certificate of incorporation—fee and filing requirements.

Articles of incorporation may be amended—fee and filing requirements.

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voting thereon at any regular meeting of the stockholders or at a special meeting of the stockholders called for that purpose. A certificate setting forth such amendment shall be executed and acknowledged on behalf of the association by its president or vice-president, and its corporate seal affixed thereto and attested by its secretary. Such certificate shall be filed in the office of the secretary of state who shall thereupon issue a certificate of amendment of the articles of incorporation, for which he shall receive the sum of *ten dollars ($10.00),* and thereupon a certified copy of such certificate shall be filed in the office of the county clerk in which the principal office of the association is located."

Amending clause.

Section 4. Section 14-422, Revised Codes of Montana, 1947, is amended to read as follows:

Filing fees—secretary of state.

"14-422. (6449) **Filing fees.** For filing articles of incorporation *and receiving a certificate of incorporation* an association organized hereunder shall pay to the secretary of state, *forty dollars ($40.00);* and for filing an amendment to the articles *and receiving a certificate of amendment, ten dollars ($10.00).*"

Amending clause.

Section 5. Section 14-527, Revised Codes of Montana, 1947, is amended to read as follows:

Fees charged by secretary of state.

"14-527. **Fees.** The secretary of state shall charge and collect for:

"(a) Filing articles of incorporation *and issuing a certificate of incorporation, forty dollars ($40.00);*

"(b) Filing articles of amendment *and issuing a certificate of amendment, ten dollars ($10.00);*

"(c) Filing articles of consolidation or merger *and issuing a certificate of consolidation or merger, ten dollars ($10.00);*

"(d) Filing articles of conversion *and issuing a certificate of conversion, ten dollars ($10.00);*

"(e) Filing certificate of election to dissolve *and issuing certificate of election to dissolve, ten dollars ($10.00);*

"(f) Filing articles of dissolution *and issuing certificate of dissolution, ten dollars ($10.00);* and

"(g) Filing certificate of change of principal office

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and issuing certificate of change of office, ten dollars ($10.00)."

Amending clause.

Section 6. Section 15-1801, Revised Codes of Montana, 1947, is amended to read as follows:

Oil, gas and other petroleum products—corporations may merge or consolidate.

"15-1801. **Oil, gas and other petroleum products corporations may merge or consolidate—agreement for merger or consolidation.** Any one or more corporations engaged in the production, marketing, or refining of oil, gas or other petroleum products or otherwise engaged in the oil, gas or petroleum products business organized under the provisions of the law of this state, or existing thereunder, may consolidate or merge with one (1) or more other like corporations organized under the laws of this or of any other state or states or territory of the United States of America if the laws under which said other corporation or corporations are formed shall permit such consolidation or merger.

"The constituent corporations may merge into a single corporation which may be any one of said constituent corporations, or they may consolidate to form a new corporation which may be a corporation of the state of incorporation of any one of said constituent corporations or shall be specified in the agreement hereinafter required. All the constituent corporations shall enter into an agreement in writing which shall prescribe the terms and conditions of the consolidation or merger, the mode of carrying the same into effect, the manner of converting the shares of each of said constituent corporations into shares of the corporation resulting from or surviving such consolidation or merger and such details and provisions as shall be deemed necessary or proper. In case of consolidation to form a new corporation there shall also be set forth in said agreement such other facts as shall then be required to be set forth in certificates of incorporation by the laws that shall govern said resulting corporation and that can be stated in the case of a consolidation.

Agreement by constituent corporations.

"Said agreement shall be authorized, adopted, approved, signed and acknowledged by each of said constituent corporations in accordance with the laws under which it is formed and in the case of a Montana corporation in the manner provided in section 15-1802. The agreement so authorized, adopted, approved, signed and acknowledged shall

Agreement filed with secretary of state.

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Certified copy filed with county clerk.

be filed in the office of the secretary of state and a copy of such agreement certified by the secretary of state under the great seal of the State of Montana, shall be filed but need not be recorded in the office of the county clerk of the county in this state wherein such resulting or surviving corporation maintains its principal place of business, if any, and also, in each other county in this state in which such corporation may own real estate, provided, however, that a failure to file such certified copy in the office of any county clerk of any county in this state shall not affect the validity of said merger or consolidation.

Effect.

Said agreement so filed in the office of the secretary of state shall thenceforth be taken and deemed to be the agreement and act of consolidation or merger of said constituent corporations for all purposes of the laws of this state and said consolidation or merger shall take effect as of the date of the filing of said agreement with the secretary of state who shall, at the time of such filing,

Fee.

receive a fee of *fifteen dollars ($15.00)* therefor. A copy of such agreement certified to be such by the secretary of state under the great seal of the State of Montana, shall be evidence of such merger or consolidation and of the contents of said agreement."

Amending clause.

Section 7. Section 15-1901, Revised Codes of Montana, 1947, is amended to read as follows:

Certain corporations may merge or consolidate.

"15-1901. **Certain corporations may merge or consolidate—agreement for merger or consolidation.** Except as otherwise specifically provided by the constitution or existing laws of the State of Montana any one or more corporations organized under the provisions of the law of this state or existing thereunder, may consolidate or merge with one or more other corporations organized under the laws of this or of any other state or states or territory of the United States of America if the laws under which said other corporation or corporations are formed shall permit such consolidation or merger.

"The constituent corporations may merge into a single corporation which may be any one of said constituent corporations, or they may consolidate to form a new corporation which may be a corporation of the state of incorporation of any one of said constituent corporations or (as) shall be specified in the agreement hereinafter required. All the constituent corporations shall enter into an agree-

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ment in writing which shall prescribe the terms and conditions of the consolidation or merger, the mode of carrying the same into effect, the manner of converting the shares of each of said constituent corporations into shares of the corporation resulting from or surviving such consolidation or merger and such details and provisions as shall be deemed necessary or proper. In case of consolidation to form a new corporation there shall also be set forth in said agreement such other facts as shall then be required to be set forth in certificates of incorporation by the laws that shall govern said resulting corporation and that can be stated in the case of a consolidation.

Agreement by constituent corporations.

"Said agreement shall be authorized, adopted, approved, signed and acknowledged by each of said constituent corporations in accordance with the laws under which it is formed and in the case of a Montana corporation in the manner provided in section 15-1902 hereof. The agreement so authorized, adopted, approved, signed and acknowledged shall be filed in the office of the secretary of state and a copy of such agreement certified by the secretary of state under the great seal of the State of Montana, shall be filed but need not be recorded in the office of the county clerk of the county in this state wherein such resulting or surviving corporation maintains its principal place of business, if any, and also, in each other county in this state in which such corporation may own real estate, provided, however, that a failure to file such certified copy in the office of any county clerk of any county in this state shall not effect the validity of said merger or consolidation. Said agreement so filed in the office of the secretary of state shall thenceforth be taken and deemed to be the agreement and act of consolidation or merger of said constituent corporations for all purposes of the laws of this state and said consolidation or merger shall take effect as of the date of the filing of said agreement with the secretary of state who shall, at the time of such filing, receive a fee of *fifteen dollars ($15.00)* therefor. A copy of such agreement certified to be such by the secretary of state under the great seal of the State of Montana, shall be evidence of such merger or consolidation and of the contents of said agreement."

Agreement filed with secretary of state. Certified copy filed with county clerk.

Effect.

Fee.

Section 8. Section 16-1303, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

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Fees.

"16-1303. (4544) **Fees.** The usual certificate fee shall be required to be paid to any county officer for filing of such articles of incorporation. *For filing and recording the articles of incorporation and issuing the certificate of incorporation thereon, the secretary of state shall collect the same fee as for corporations organized under sections 15-1401 to 15-1406.*"

Amending clause.

Section 9. Section 25-110, Revised Codes of Montana, 1947, is amended to read as follows:

Water users' association exempt.

"25-110. (147) **Water users' association exempt from payment of fees.** Any water users' association, organized in conformity with the requirements of the laws of the United States and of the State of Montana, under the reclamation act of June 17, 1902, which, under the articles of incorporation, is authorized to furnish water only to its stockholders, shall be exempt from the payment of any incorporation tax and from the payment of any annual franchise tax, and upon filing its articles of incorporation with the secretary of state, shall be required to pay only

Fee for filing and recording only.

a fee of *forty dollars ($40.00)* for the filing and recording of such articles of incorporation, and the issuance of certificate of incorporation."

Amending clause.

Section 10. Section 53-204, Revised Codes of Montana, 1947, is amended to read as follows:

Service of process— how made.

"53-204. **Service of process, how made—fees.** Service of such summons or process under section 53-202 and 53-203 shall be made by leaving a copy thereof with a fee of *five dollars ($5.00)* with the secretary of state of the State of Montana, or in his office, and such service shall be sufficient and valid personal service upon the defendant.

"Provided, that notice of such service and a copy of the summons or process is forthwith sent by registered mail requiring personal delivery, by the plaintiff to the defendant and the defendant's return receipt and plaintiff's affidavit of compliance herewith are appended to the process and entered as a part of the return thereof:

"Provided, further, that personal service outside of this state in accordance with the provisions of the statutes thereof relating to a personal service of summons outside of this state shall relieve a plaintiff from mailing a copy

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of the summons or process by registered mail as hereinbefore provided. The secretary of state shall forthwith send one of such copies by mail, postage prepaid, addressed to the defendant at his address if known to the secretary of state. The court in which the action is brought may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action."

Amending clause.

Section 11. Section 53-205, Revised Codes of Montana, 1947, is amended to read as follows:

Service fee—taxed as costs.

"53-205. **Service fee, when taxed as costs.** The fee of *five dollars ($5.00)* paid by the plaintiff to the secretary of state shall be taxed as part of his costs if he prevails in the action."

Amending clause.

Section 12. Section 56-113, Revised Codes of Montana, 1947, is amended to read as follows:

Fees for filing commission and issuing certificates.

"56-113. (397) **Fees for filing commission and issuing certificates.** The secretary of state shall receive for each certificate of official character issued, with seal attached, the sum of *two dollars ($2.00)*. The county clerk of any county in this state with whom a copy of notarial commission has been filed, shall receive for filing same the sum of fifty cents, and for each certificate of official character issued, with seal attached, the further sum of fifty cents."

Amending clause.

Section 13. Section 65-213, Revised Codes of Montana, 1947, is amended to read as follows:

Entruster may file statement of trust receipt transaction.

"65-213. **Filing and refiling.** 1. Any entruster undertaking or contemplating trust receipt transactions with reference to documents or goods is entitled to file with the registrar of motor vehicles in case the goods consist of automobiles, trucks, trailers and/or semi-trailers, or with the secretary of state and a copy with the clerk and recorder of the county wherein the goods and/or instruments are located in the case of any other trust receipt transaction a statement, signed by the entruster and the trustee, containing:

"(a) a designation of the entruster and the trustee, and of the chief place of business of each within this state, if any; and if the entruster has no place of business within the state, a designation of his chief place of business outside the state; and

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"(b) a statement that the entruster is engaged, or expects to be engaged, in financing under trust receipt transactions the acquisition of goods by the trustee; and

"(c) a description of the kind or kinds of goods covered or to be covered by such financing.

Form of statement.

"2. The following form of statement (or any other form of statement containing substantially the same information) shall suffice for the purposes of this act.

STATEMENT OF TRUST RECEIPT FINANCING

"The entruster, ... whose chief place of business within this state is at....., (or who has no place of business within this state and whose chief place of business outside this state is at .....) is or expects to be engaged in financing under trust receipt transactions the acquisition by the trustee, ... whose chief place of business within this state is at ..... of goods of the following description: (coffee, silk, automobiles, or the like.)

(Signed).....Entruster
(Signed).....Trustee."

Duty to number and file—index.

"3. It shall be the duty of the filing officer to mark each statement filed with a consecutive file number, and with the date and hour of filing, and to keep such statement in a separate file; and to note and index the filing in a suitable index, indexed according to the name of the trustee and containing a notation of the trustee's chief place of business as given in the statement. The fee for such filing shall be *three dollars ($3.00)*.

Fee.

Effect.

"4. Presentation for filing of the statement described in subdivision 1, and payment of the filing fee, shall constitute filing under this act, in favor of the entruster, as to any documents or goods falling within the description in the statement which are within one year from the date of such filing, or have been, within 30 days previous to such filing, the subject-matter of a trust receipt transaction between the entruster and the trustee.

Subsequent statement.

"5. At any time before expiration of the validity of the filing, as specified in subdivision 4, a like statement, or an affidavit by the entruster alone, setting out the in-

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formation required by subdivision 1, may be filed in like manner as the original filing. Any filing of such further statement or affidavit shall be valid in like manner and for like period as an original filing, and shall also continue the rank of the entruster's existing security interest as against all junior interest. It shall be the duty of the filing officer to mark, file and index the further statement or affidavit in like manner as the original."

Effect.

Section 14. Section 72-306, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"72-306. (6538) **Contract to be recorded.** The contracts herein authorized shall be recorded by the secretary of state in a book of records to be kept for that purpose, and on payment in full of the purchase-money, and the performance of the terms and conditions stipulated in any such contract, a declaration in writing to that effect may be made by the vendor, lessor, or bailor, or his or its assignee, which declaration may be made on the margin of the record of the contract, duly attested, or it may be by a separate instrument to be acknowledged by the vendor, lessor, or bailor, or his or its assignee, and recorded as aforesaid, and for such services the secretary of state shall be entitled to a fee of fifteen dollars, for recording each of said contracts and each of said declarations, and a fee of *two dollars ($2.00)* for noting such declaration on the margin of the record."

Secretary of state shall record contracts.

Fee.

Section 15. Section 84-1515, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"84-1515. (2303.7) **Reviver of corporation after suspension or forfeiture.** Any corporation which has suffered the suspension or forfeiture referred to in the preceding section may be relieved therefrom upon making application therefor in writing supported by a certificate from the state board of equalization showing that the required return has been made and filed and/or that the tax and interest and penalties have been paid, for which the suspension or forfeiture occured. Application for reviver may be made by any stockholder or creditor of the corporation or by a majority of the surviving trustees or directors, and the same shall be filed with the secretary of state, *for which he shall receive a filing and recording fee of five dollars ($5.00).* In case the application is made in

Reviver of corporation—application and fees.

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any taxable year other than the taxable year in which the suspension or forfeiture occurred the applicant shall pay twice the amount of the tax and penalties due the state for the taxable year in which the suspension or forfeiture occurred, and upon such payment the secretary of state shall issue a certificate of reviver *for which he shall collect a fee of five dollars ($5.00)* and thereupon the applicant shall be revived. The reviver shall be without prejudice to any action, defense or right which has accrued by reason of the original suspension or forfeiture. The certificate of reviver shall be prima facie evidence of the reviver. Any certificate of reviver provided for in this section may be recorded in the office of the county recorder in any county of this state."

Certificate of reviver.

Effect.

Amending clause.

Section 16. Section 85-103, Revised Codes of Montana, 1947, is amended to read as follows:

Secretary of state shall keep record of trade-marks or names.

"85-103 (4288) **Record of trade-marks or names—fee.** The secretary of state must keep for public examination, a record of all trade-marks or names filed in his office, with the date when filed and the name of the claimant, and must not record any two (2) like trade-marks or names; provided, however, that in the event that an affidavit, attested by two (2) witnesses, is filed in the office of the secretary of state to the effect that any trade-marks or name recorded therein in the name of any person or persons, corporation or association has not been used by such person or persons, corporation or association, their successors or assigns, for a period of five (5) years immediately preceding the filing of said affidavit, then and in that event the secretary of state is authorized, empowered and directed to record said trade-mark or name in the name of the person making application therefor in said affidavit, or in the name of the person or persons, corporation or association for whose benefit said application and affidavit are made, but without prejudice to any person claiming to be injured thereby to contest the same in any court of competent jurisdiction, within a period of six (6) months thereafter. He must, at the time of filing and recording a trade-mark or name, collect from the claimant *the fee set forth in section 25-102.*"

Fees.

Amending clause.

Section 17. Section 93-3009, Revised Codes of Montana, 1947, is amended to read as follows:

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"93-3009. (9113) **When and how service is made—fee for service.** When such order is made, the summons and complaint, together with a copy of such order, shall be served upon the secretary of state of the State of Montana, or, in his absence from his office, upon the deputy secretary of state, by delivering to and leaving with him a true copy of the summons and complaint, and a copy of such order, and shall likewise pay to the said secretary a fee of *five dollars ($5.00),* which shall be covered into the state treasury by him, and may be taxed as costs by the plaintiff."

Service—when and how made.

Fees.

Section 18. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 2, 1961.

CHAPTER 118

An Act to Amend Section 55-1004, of the Revised Codes of Montana, 1947, Relating to Inland and Foreign Bills of Exchange.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 55-1004 of the Revised Codes of Montana of 1947 be, and the same is hereby amended to read as follows:

Amending clause.

"55-1004. (8536) **Inland and foreign bills of exchange.** An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within *the United States.* Any other bill is a foreign bill. *For the purposes of this section 'United States' means the states, territories, dependencies and possessions of the United States, the District of Columbia and Puerto Rico.* Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill."

Inland and foreign bills of exchange defined.

Approved March 2, 1961.

CHAPTER 119

An Act to Amend Section 32-2148, Revised Codes of Montana, 1947, as Enacted by Section 45, Chapter 263,

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Laws of 1955, as Amended by Section 1, Chapter 241, Laws of 1957, Relating to Special Speed Limitation on Trucks, Truck-Tractors, Motor-Driven Cycles and Vehicles Towing House Trailers; Increasing Gross Vehicle Weight of Trucks and Truck-Tractors Which Are Restricted to Speed Limit of Fifty (50) Miles Per Hour; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-2148, Revised Codes of Montana, 1947, as enacted by section 45, chapter 263, laws of 1955, as amended by section 1, chapter 241, laws of 1957, be, and the same is hereby amended to read as follows:

Special speed limitations—trucks.

"32-2148. **Special speed limitations on trucks, truck-tractors, motor-driven cycles and vehicles towing house trailers.** (a) No person shall operate any truck or truck-tractor the gross weight of which exceeds *eight thousand (8,000)* pounds at a speed greater than fifty (50) miles per hour.

Motorcycles.

"(b) No person shall operate any motor-driven cycle at any time mentioned in section 112, chapter 263, laws of 1955, (32-21-115), at a speed greater than thirty-five (35) miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of three hundred (300) feet ahead.

Vehicles towing trailers.

"(c) No person shall operate a vehicle which is towing a house trailer at a speed greater than a maximum of fifty (50) miles per hour."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1961.

CHAPTER 120

An Act to Amend Section 31-129, Revised Codes of Montana, 1947, Relating to the Issuance of Instruction Permits and Temporary Licenses; Requiring Drivers to Be Fifteen (15) Years Old to Be Eligible for Such Permits

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or Licenses; Increasing Life of Instruction Permit to Six (6) Months; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-129, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Driver must be 15 years of age—6 months instruction permit.

"31-129. **Instruction permits and temporary licenses.** (a) Any person who is at least *fifteen (15)* years of age may apply to the board for an instruction permit. The *board* may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the public highways for a period of *six (6) months* when accompanied by a licensed operator or chauffeur who is occupying a seat beside the driver, except in the event the permittee is operating a motorcycle.

Board may issue restricted instruction permit for driver training.

"(b) The board upon receiving proper application may in its discretion issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a driver-training program approved by the board even though the applicant has not reached the legal age to be eligible for an operator's license. Such instruction permit shall entitle the permittee when he has such a permit in his immediate possession to operate a motor vehicle only on a designated highway or within a designated area but only when an approved instructor is occupying a seat beside the permittee.

Board may issue temporary driver's permit.

"(c) The board may in its discretion issue a temporary driver's permit to an applicant for an operator's license permitting him to operate a motor vehicle while the board is completing its investigation and determination of all facts relative to such applicant's right to receive an operator's license. Such permit must be in his immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1961.

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CHAPTER 121

An Act to Submit to the Qualified Electors of Montana an Amendment to the Constitution of Montana to Eliminate the Constitutional Status of Justice of the Peace Courts, Police Courts and Municipal Courts by Deleting Certain Specific References to Such Courts in the Constitution by Amending Sections 8 and 23, Article III and Sections 1 and 34, Article VIII and by Repealing Sections 20, 21, 22, 23 and 24, Article VIII.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 8, article III of the constitution of the State of Montana is amended to read as follows:

Criminal offenses— how prosecuted.

"Section 8. Criminal offenses shall, in all courts inferior to the district court, be prosecuted by complaint. All criminal actions in the district court, except those on appeal, shall be prosecuted by information, after examination and commitment by a magistrate, or after leave granted by the court, or shall be prosecuted by indictment without such examination or commitment, or without such leave of the court. A grand jury shall consist of seven persons, of whom five must concur to find an indictment.

Grand jury— seven persons— five must concur.

District judge may order.

"A grand jury shall only be drawn and summoned when the district judge shall, in his discretion, consider it necessary, and shall so order."

Amending clause.

Section 2. Section 23, article III of the constitution of the State of Montana is amended to read as follows:

Right of trial by jury.

"Section 23. The right of trial by jury shall be secured to all, and remain inviolate, but in all civil cases and in all criminal cases not amounting to felony, upon default of appearance, or by consent of the parties expressed in such manner as the law may prescribe, a trial by jury may be waived, or a trial had by any less number of jurors than the number provided by law. In all civil actions and in all criminal cases not amounting to felony, two-thirds in number of the jury may render a verdict, and such verdict so rendered shall have the same force and effect as if all such jury concurred therein."

Two-thirds may render verdict.

Amending clause.

Section 3. Section 1, article VIII of the constitution of the State of Montana is amended to read as follows:

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Judicial power vested.

"Section 1. The judicial power of the state shall be vested in the senate sitting as a court of impeachment, in a supreme court, district courts, and such other courts as the legislative assembly may establish."

Amending clause.

Section 4. Section 34, article VIII of the constitution of the State of Montana is amended to read as follows:

Vacancies in office filled by appointment.

"Section 34. Vacancies in the office of justice of the supreme court, or judge of the district court, or clerk of the supreme court, shall be filled by appointment, by the governor of the state, and vacancies in the offices of county attorney, *and* clerk of the district court, shall be filled by appointment, by the board of county commissioners of the county where such vacancy occurs. A person appointed to fill any such vacancy shall hold his office until the next general election and until his successor is elected and qualified. A person elected to fill a vacancy shall hold office until the expiration of the term for which the person he succeeds was elected."

Repealing clause.

Section 5. Sections 20, 21, 22, 23, and 24, article VIII of the constitution of the State of Montana are repealed.

Form of ballot.

Section 6. When this amendment is submitted to the electors of the State of Montana as provided by law there shall be printed on the ballot the full title and the first five sections of this act and the following words:

☐ For the above amendment and repeal.
☐ Against the above amendment and repeal.

Approved March 2, 1961.

CHAPTER 122

An Act to Amend Section 53-102 (1755.1), Revised Codes of Montana, 1947, Relating to Penalty for Violations and Enforcement of Provisions of Motor Vehicle Registration Laws; Providing Penalties for Violation of Sections 53-106, as Amended, 53-106.1, 53-106.2, 53-106.6, 53-107, as Amended, 53-108, as Amended, and 53-109, as Amended, Revised Codes of Montana, 1947, Repealing All Acts or Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-102, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Penalty for violations.

"53-102. (1755.1) **Penalty for violations — Enforcement of provisions.** The violation of any of the provisions of sections 53-101, *53-106, as amended, 53-106.1, 53-106.2, 53-106.6, 53-107, as amended, 53-108, as amended, and 53-109, as amended,* 53-114, 53-115, 53-116, 53-117, 53-118, 53-119, 53-120 and 53-121, shall constitute a misdemeanor and shall be punishable by a fine of not exceeding twenty-five dollars ($25.00). Nothing herein contained shall prevent the prosecution of a person for an offense committed under any other law.

Duty to enforce motor vehicle registration laws.

"It is hereby made mandatory upon all police and peace officers of the state, of the counties of the state, and of towns, cities and villages to carry out the provisions of section 53-101, *53-106, as amended, 53-106.1, 53-106.2, 53-106.6, 53-107, as amended, 53-108, as amended, and 53-109, as amended,* and sections 53-114 to 53-121, inclusive."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1961.

CHAPTER 123

An Act to Amend Section 32-404 of Replacement Volume 3, of the Revised Codes of Montana, of 1947, Relating to Establishing, Altering or Vacating Highways; Providing That After the County Commissioners and the County Surveyor Have Considered the Petition, They Shall Within Ten (10) Days Notify by Certified Mail the Petitioners and All Land Owners as Disclosed by the Last Assessment Rolls of the County, Owning Land Abutting the Road.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-404 of the Revised Codes of Montana, of 1947, be, and the same is hereby amended to read as follows:

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"32-404. (1638) **Minute entry of action on petition — Notice to interested parties.** After the commissioners shall have considered the petition, provided that not more than one member of the board of county commissioners and the county surveyor shall act as viewers in making the investigation, they shall make an entry on their minutes of their decision with reference thereto, and cause notice of their action on said petition to be sent by *certified* mail *within ten (10) days* to the petitioners and to all land owners as disclosed by the last assessment rolls of the county, owning land abutting the roadway proposed to be established, changed or discontinued."

Minute entry of action on petition.

Notice to be sent by certified mail within ten days.

Approved March 2, 1961.

CHAPTER 124

An Act to Provide the Boards of County Commissioners With Secondary Road Information.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. On or before August 30 of each year the Montana state highway commission shall provide the board of county commissioners in each county with the following secondary road information:

Highway commission to furnish road information to counties.

(a) The total amount of moneys in the secondary road fund and the allocation thereof to each county; and

(b) The location of proposed secondary road projects when the information is available; and,

(c) Such further information regarding secondary road construction as the state highway commission deems advisable and of interest to the several counties.

Approved March 2, 1961.

CHAPTER 125

An Act to Amend Section 31-146, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 192, Laws of 1957; Relating to Mandatory Revocation of License or Operating Privilege by Board; Requiring Board to

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Revoke License Upon Receiving Record of Conviction or Forfeiture of Bail Not Vacated for Offenses When Such Conviction or Forfeiture Becomes Final; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-146, Revised Codes of Montana, 1947, as amended by section 1, chapter 192, laws of 1957, be, and the same is hereby amended to read as follows:

Mandatory revocation of driver license on final conviction or forfeiture of bail.

"31-146. **Mandatory revocation of license by board or supervisor upon proper authority.** The board or supervisor upon proper authority shall forthwith revoke the license *or operating privilege* of any operator or chauffeur upon receiving a record of such operator's or chauffeur's conviction *or forfeiture of bail not vacated* of any of the following offenses, when such conviction *or forfeiture* has become final:

"1. Manslaughter resulting from the operation of a motor vehicle;

"2. Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug or a combination thereof;

"3. Any felony in the commission of which a motor vehicle is used;

"4. Failure to stop and render aid as required under the laws of this state in the event of a motor-vehicle accident resulting in the death or personal injury of another;

"5. Perjury or the making of a false affidavit or statement under oath to the board under this act or under any other law relating to the ownership or operation of motor vehicles;

"6. Conviction, or forfeiture of bail not vacated, upon three (3) charges of reckless driving committed within a period of twelve (12) months."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1961.

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CHAPTER 126

An Act to Amend Section 75-3414, Revised Codes of Montana, 1947, Relating to School Transportation; Providing for a Contingency Item in the School Transportation Budget; Requiring Copies of Transportation Contracts and Budgets to be Transmitted to the Superintendent of Public Instruction; Containing a Repealing Clause; and Fixing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3414, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duty of board to adopt elementary school transportation budget.

"75-3414. **Budgets and levies for transportation.** (a) The board of trustees of any school district maintaining an elementary school, or schools, or providing for the transportation of its pupils to attend an elementary school or schools, outside of the district, or furnishing services in lieu thereof, shall have the authority and it shall be its duty to provide and adopt a complete transportation budget therefor, which budget shall show in detail and by items the estimated expenditures and receipts for the school year for which it is provided. *The estimated expenditures may include a contingency item for the purpose of enabling the trustees of the district to fulfill any obligation to provide transportation in accordance with the provisions of the transportation act for any pupils not residing in the district at the time of adoption of the transportation budget who subsequently become residents of the district during the budget year. The amount of such contingency item shall not exceed ten per cent (10%) of the total amount of the regularly budgeted expenditures of the district arrived at in accordance with the schedule established in section 75-3407, provided, however, that when ten per cent of the budgeted schedule amount will provide less than one hundred dollars ($100.00), the ten per cent limitation shall not apply and the district may budget for a contingency item of up to but not exceeding one hundred dollars ($100.00).* The form of such transportation budget shall be prescribed by the state superintendent of public instruction. The total amount of the estimated expenditures, as shown by such transportation budget, shall be shown and included in the elementary

Estimated expenditures may include contingency item.

Amount of contingency.

Form of budget.

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school budget form and the estimated receipts from reimbursements, as shown in such transportation budget, shall be shown and included in the elementary budget form as provided. *A copy of the elementary transportation budget adopted, together with a duly signed copy of each and every contract form pertaining thereto, shall be transmitted by the county superintendent of schools to the state superintendent of public instruction at the same time copies of the elementary school budgets are required to be so transmitted.*

Copies to be transmitted.

Balance of budget paid by tax levy.

"(1) When the total elementary transportation budget has been presented in detail on approved forms including *duly signed contract forms for* the contracting, operation, maintenance, rent or purchase of school busses, individual transportation, and increased transportation due to isolation, and after deducting all estimated receipts including reimbursements, the balance of the budget shall be paid out of receipts from a tax levied upon all the taxable property of the school district.

Duty of board to adopt high school transportation budget.

"(2) The board of trustees of every school district maintaining a high school, or furnishing transportation for its pupils to another high school, or services in lieu thereof, and the board of trustees of every county high school, shall have the authority and it shall be its duty to provide a complete transportation budget therefor, including *duly signed contract forms for* the contracting, operation, maintenance, rent or purchase of school busses, individual transportation, and increased transportation due to isolation, or any service in lieu of transportation. The budget shall show in detail and by items the estimated expenditures and receipts, including the state transportation reimbursements, for the school year for which it is provided. *The estimated expenditures may include a contingency item for the purpose of enabling the trustees of the high school to fulfill any obligation to provide transportation in accordance with the provisions of the transportation act for any high school pupils not residing in the high school territory under the jurisdiction of the trustees at the time of adoption of the transportation budget who subsequently become residents of said territory during the budget year. The amount of such contingency item shall not exceed ten per cent (10%) of the total amount of the regularly budget expenditures*

Estimated expenditures may include contingency item.

Amount of contingency.

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of the high school arrived at in accordance with the schedule established in section 75-3407, provided, however, that when ten per cent of the budgeted schedule amount will provide less than one hundred dollars ($100.00), the ten per cent limitation shall not apply and the high school may budget for a contingency item of up to but not exceeding one hundred dollars ($100.00). The form of such transportation budget shall be prescribed by the state superintendent of public instruction. A copy of the high school transportation budget adopted for each high school, *together with a duly signed copy of each and every contract form pertaining thereto,* shall be transmitted by the county superintendent of schools to the state superintendent of public instruction at the same time copies of the final high school budgets are required to be so transmitted. For each high school transportation budget arrived at according to the schedule set up in section 75-3407, the amount remaining after deducting all estimated local receipts, including cash balances and state transportation reimbursements from the total amount required for the transportation budget according to the schedule, shall be the amount required to be raised by tax levy for such high school transportation budget, and the total of all such amounts required to be raised by tax levy for all such high school transportation budgets shall be the total amount required to be raised by county-wide transportation levy, and the county commissioners, except as hereinafter provided, shall make a county-wide levy of such number of mills as will raise such total amount; provided that this amount shall not be more than two-thirds (⅔) of the total of each high school transportation budget according to the schedule as set forth in section 75-3407. The amount remaining in each high school transportation budget over and above the amount arrived at according to the schedules in section 75-3407, as amended, shall be the amount required to be raised by tax levy for each such high school transportation budget and all such amounts required to be raised by tax levy for each such high school transportation budget shall be the total amount required to be raised by high school transportation levy on the high school district if there be one; and in case of a county high school by a county levy,

Form of budget.

Copies to be transmitted.

Balance of budget paid by tax levy—determination of amount.

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excluding those districts maintaining high schools, otherwise on the common school district, of which each particular high school is a part, and the county commissioners shall make a levy of such number of mills as will raise such needed amount; provided that the amount budgeted for high school transportation in any high school budget shall not be deemed or considered as a part of or included within the maximums for high school budgets as fixed and determined by chapter 199, laws of 1949, as amended, and the county-wide high school transportation levy herein provided for shall not be deemed or construed as a part of the county-wide high school levy authorized by section 75-4516.1, unless the trustees making such budget so desire and the board of county commissioners find that such high school transportation levy is not required to raise the amount necessary for such budget for all purposes including transportation or services in lieu thereof."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 2, 1961.

CHAPTER 127

An Act Changing the Cut-off Date for Submitting Claims for a Fiscal Year From Twenty Days Following the End of the Fiscal Year to the End of the Fiscal Year by Amending Sections 82-1109 and 59-701, Revised Codes of Montana, 1947, and Section 3, Chapter 84, Laws of 1955 Compiled as Section 59-701.2, Revised Codes of Montana, 1947.

Be it amended by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1109, Revised Codes of Montana, 1947, is amended to read as follows:

Presentation of claims to state board of examiners.

"82-1109. (238) Any person having a claim against the state, for which an appropriation has been made, may present the same to the state board of examiners in

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the form of an account or petition, and the secretary of the board must date, number, and file such claim, provided, however, that all claims for which appropriations have been made must be transmitted to the said board not later than the close of each fiscal year, and claims submitted after the close of each fiscal year and not paid as provided by *law* by reason of exhausted appropriation shall be transmitted to the next succeeding legislative assembly in the same manner as provided in section 82-1119, *Revised Codes of Montana, 1947.* The said board must allow or reject claims submitted not later than the close of each fiscal year in the order of their presentation.

Required statement.

"All claims against the state shall contain the following statement: 'I certify that this claim is correct and just in all respects, and that payment or credit has not been received.' Claims need not be verified by affidavit."

Amending clause.

Section 2. Section 59-701, Revised Codes of Montana, 1947, is amended to read as follows:

Fiscal year for state purposes declared.

"59-701. (518) The fiscal year for state purposes commences on the first (1st) day of July of each year, and ends on the last day of June of each year. The fiscal year for county purposes commences on the first (1st) day of July of each year and ends on the last day of June of each year. At the close of each fiscal year each state office, department, bureau, commission, institution, university unit, and agency shall make a determination of its financial condition and the results of its operations for such fiscal year, and the fiscal records of such state office, department, bureau, commission, institution, university unit, or agency for such fiscal year shall be closed out not *later than the end* of each fiscal year, and the trial balances of the accounts of such state office, department, bureau, commission, institution, university unit, and agency shall be transmitted to the state controller so as to be received by him not more than *ten (10)* days following the close of each fiscal year."

Fiscal records must be closed by end of fiscal year.

Trial balances transmitted to controller within ten days.

Amending clause.

Section 3. Section 59-701.2, chapter 84, laws of 1955, Revised Codes of Montana, 1947, is amended to read as follows:

Unpaid claims payable from succeeding appropriation.

"59-701.2 Any just claims not paid within the *fiscal year* shall become payable from the succeeding year's ap-

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propriation, providing, however, that such claims shall not exceed the appropriation made for the preceding biennium."

Approved February 28, 1961.

CHAPTER 128

An Act Prohibiting Persons Committed to the State Prison From Holding Hostages or From Unlawfully Holding Persons Against Their Will and Fixing the Penalty Therefor; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Holding of hostage declared felony.

Section 1. Every person committed to the Montana state prison, who, while at such state prison or while being conveyed to or from the Montana state prison, or while at a state prison farm or ranch, or while being conveyed to or from any such place, or while under the custody of prison officials, officers or employees, or while escaping or attempting to escape therefrom, holds as hostage any person within the state prison or who, unlawfully, by force or threat of force holds any person or persons against their will shall be guilty of a felony and shall be imprisoned in the state prison for a term not less than ten (10) years, such term of imprisonment to commence from the time he would have otherwise been released from said prison.

Penalty.

Effective immediately.

Section 2. This act will take effect and be in full force and effect from and after its passage and approval.

Approved March 2, 1961.

CHAPTER 129

An Act to Amend Section 94-602, Revised Codes of Montana, 1947, Concerning the Crime of Assault in the Second Degree to Provide for Increasing the Punishment by Imprisonment in the State Prison for Six (6) Instead of Five (5) Years.

Be it enacted by the Legislative Assembly of the State of Montana:

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Section 1. That section 94-602 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows: Amending clause.

"94-602. (10977) **Assault in second degree.** Every person who, under circumstances not amounting to the offense specified in the last section: Assault in second degree defined.

"(1) With intent to injure unlawfully, administers to, or causes to be administered to, or taken by another, poison, or any other destructive or noxious thing, or any drug or medicine, the use of which is dangerous to life or health; or,

"(2) With intent thereby to enable or assist himself, or any other person, to commit any crime, administers to, or causes to be administered to, or taken, by another, chloroform, ether, laudanum, or any other intoxicating narcotic, or anesthetic agent; or,

"(3) Wilfully or wrongfully wounds or inflicts grievous bodily harm upon another, either with or without a weapon; or,

"(4) Wilfully and wrongfully assaults another by the use of a weapon, or other instrument or thing likely to produce grievous bodily harm; or,

"(5) Assaults another with intent to commit a felony, or to prevent or resist the execution of any lawful process or mandate of any court or officer, or the lawful apprehension or detention of himself, or of any other person, is guilty of an assault in the second degree, and is punishable by imprisonment in the state prison for not less than one nor more than *six* years, or by a fine not exceeding two thousand dollars, or both." Penalty.

Approved March 2, 1961.

CHAPTER 130

An Act Providing for the Time of Commencement of Term of Imprisonment in the State Prison Fixed by Judgment Rendered When Person Then Under Sentence of Commitment to the State Prison; and to Provide for an Effective Date.

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Be it enacted by the Legislative Assembly of the State of Montana:

Terms of imprisonment for conviction of felonies shall not be consecutive —when.

Section 1. The term of imprisonment fixed by judgment in a criminal action for a felony perpetrated by a person who was then under sentence of commitment to the state prison and while confined at such prison or while being conveyed to or from said prison or while awaiting conveyance or transfer to said prison or while unlawfully absent from said prison, shall commence at the termination of the term of imprisonment for which said person was then committed or under sentence at the time said subsequent offense was committed.

Effective immediately.

Section 2. This act will take effect and be in full force and effect from and after its passage and approval.

Approved March 2, 1961.

CHAPTER 131

An Act Relating to Deadly Weapons; Prohibiting the Carrying or Possession of Deadly Weapons by Persons Committed to the Montana State Prison and Fixing the Penalty Therefor; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Possession of deadly weapon by prisoner declared felony.

Section 1. Every prisoner committed to the Montana state prison, who, while at such state prison, or while being conveyed to or from the Montana state prison, or while at a state prison farm or ranch, or while being conveyed to or from any such place, or while under the custody of prison officials, officers or employees, possesses or carries upon his person or has under his custody or control without lawful authority, a dirk, dagger, pistol, revolver, sling-shot, swordcane, billy, knuckles made of any metal or hard substance, knife, razor, not including a safety razor, or other deadly weapon, is guilty of a felony and shall be punishable by imprisonment in the state prison for a term not less than five (5) years nor more than fifteen (15) years. Such term of imprisonment to commence from the time he would have otherwise been released from said prison.

Penalty.

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Section 2. This act will take effect and be in full force and effect from and after its passage and approval. Effective immediately.

Approved March 2, 1961.

CHAPTER 132

An Act to Amend Sections 10-611 and 10-633, Revised Codes of Montana, 1947, Relating to Hearings Had in Juvenile Courts; Providing for the Admission of the General Public and Publicity in Certain Cases; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 10-611, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"10-611. **Hearing — Judgment.** The court may conduct the hearing in an informal manner and may adjourn the hearing from time to time. In the hearing of any juvenile case, as distinguished from a case involving a child charged with the commission of or attempt to commit any of the criminal offenses set out in subdivision (2) (b) of section 10-602, the general public shall be excluded and only such persons admitted as have a direct interest in the case; *provided, however, that whenever the hearing in the juvenile court is had on a written petition charging the commission of any felony, persons having a legitimate interest in the proceeding, including responsible representatives of public information media, shall not be excluded from such hearing.* All cases involving children shall be heard separately and apart from the trial of cases against adults. Conduct of hearings on juvenile cases. Certain persons not excluded when felony charged.

"If the court shall find that the child is delinquent within the provisions of this act, it may by order duly entered proceed as follows: Procedure by court on finding of delinquency.

"(1) Place the child on probation or under supervision upon such terms as the court shall determine.

"(2) Commit the child to a suitable public institution or agency or to a suitable private institution or agency incorporated under the laws of the state, approved by the

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state department of public welfare, and authorized to care for children; or to place them in suitable foster homes, approved by the department of public welfare, or the probation department.

"(3) Order such further care and treatment as the court may deem best for the best interests of the child, except as herein otherwise provided.

"No commitment of any such delinquent child to any institution under this act shall be deemed commitment to a penal institution. No adjudication upon the status of any delinquent child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any delinquent child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of any crime in any court except as provided in the preceding section of this act. The disposition of the delinquent child or any evidence given in the court shall not be admissible as evidence against the child in any other case or proceeding.

"Whenever the court shall commit a delinquent child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning such child.

"Whenever a child or an adult under the age of twenty-one (21) years is convicted of a felony or felonies or attempt to commit a felony or felonies and is sentenced to imprisonment in the state prison, he shall, throughout the term of imprisonment or until such time as he reaches the age of twenty-one (21) years, be kept separate and apart at all times from those inmates who are over the age of twenty-one years."

Amending clause.

Section 2. That section 10-633, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Limitation on publicity given juvenile matters.

"10-633. **Publicity forbidden.** No publicity shall be given to *the identity of an arrested juvenile or to* any matter or proceeding in the juvenile court involving children proceeded against as, or found to be, delinquent children, *except where a hearing or proceeding is had in the juvenile court on a written petition charging the commission of any felony.*"

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Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1961.

CHAPTER 133

An Act Relating to Game Animals; Outlawing Contests Which Are Based Upon the Size or Weight of a Game Animal or Part of a Game Animal; Providing a Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Contests involving killing of game animals declared unlawful.

Section 1. Except as provided in this section, it is unlawful for any person, *as defined in section 26-201, Revised Codes of Montana, 1947,* to conduct or sponsor in any manner a contest in which a prize is offered to a person who kills a game animal possessing the largest antlers or horns, carrying the greatest weight, having the longest body, or any similar contest based upon the size or weight of a game animal or part of a game animal. This act does not apply to recognition given by the nationally established and recognized Boone and Crockett trophy institute. A person who violates this section is guilty of a misdemeanor and is punishable according to the provisions of section 26-324, Revised Codes of Montana, 1947.

Penalty.

Approved March 2, 1961.

CHAPTER 134

An Act to Amend Sections 16-1601, 16-1602, 16-1607 and 16-1626, Revised Codes of Montana, 1947, Relating to Rural Improvement Districts; to Provide for the Establishment of a Special Improvement District for the Purpose of Acquiring by Purchase an Existing Water Works; to Provide for Giving Notice of Proposed Purchases of Existing Improvements and Prescribing Said Notice.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1601, Revised Codes of Montana, 1947, is amended to read as follows:

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Special rural improvement districts may be created on petition.

"16-1601. (4574) **Rural improvement districts—Creation and objects.** Whenever the public interest or convenience may require, and upon the petition of sixty per centum (60%) of the freeholders affected thereby, the board of county commissioners is hereby authorized and empowered to order and create special improvement districts in thickly populated localities outside of the limits of incorporated towns and cities for the purpose of building, constructing, *or acquiring by purchase,* and maintaining sanitary and storm sewers, light systems, waterworks plants, water systems, sidewalks and such other special improvements as may be petitioned for."

Amending clause.

Section 2. Section 16-1602, Revised Codes of Montana, 1947, is amended to read as follows:

Resolution of intention by board of county commissioners.

"16-1602. (4575) **Resolution of intention — Publication, mailing and notice.** Before creating any special improvement district for the purpose of making any of the improvements, acquiring any private property for any purpose authorized by this act, the board of county commissioners shall pass a resolution of intention so to do, which resolution shall designate the number of such district, describe the boundaries thereof, and state therein the general character of the improvements which are to be made, designate the name of the engineer who is to have charge of the work, and an approximate estimate of the cost thereof. Upon having passed such a resolution the board of county commissioners must give notice of the passage of such resolution of intention, which notice must be published for ten consecutive days in a daily newspaper or in two issues of a weekly newspaper published nearest to the place where such improvement district is to be created, and shall also cause to be posted within the boundaries of such special improvement district, a copy of such notice in three public places, and a copy of such notice shall be mailed to every person, firm or corporation, or the agent of such person, firm or corporation owning property within the proposed district, at his last known place of residence upon the same day such notice is first published or posted.

Notice by publication and posting.

Requirements of notice— to provide for hearing protests.

"Such notice must describe the general character of the improvement, or improvements, so proposed to be made, *or acquired by purchase,* state the estimated cost thereof, and designate the time when, and the place where, the

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board of county commissioners will hear and pass upon all protests that may be made against the making or maintenance of such improvements, or the creation of such district, and the said notice shall refer to the resolution on file in the office of the county clerk for the description of the boundaries. *If the proposal is for the purchase of an existing improvement, the notice shall state the exact purchase price of such existing improvement.*"

Amending clause.

Section 3. Section 16-1607, Revised Codes of Montana, 1947, is amended to read as follows:

Notice inviting proposals—publication and posting.

"16-1607. (4580) **Notice inviting proposals — Publication and posting — Opening bids — Re-advertisement.** (1) A notice inviting proposals and referring to specifications on file with the engineer selected as hereinbefore provided shall be published at least twice in a daily, semi-weekly or weekly newspaper published and circulated nearest to the boundaries of the said proposed improvement district, and which paper shall be designated by the board of county commissioners for that purpose, and a copy of said notice shall be posted in at least three public places within the boundaries of the proposed district.

Call for bids.

"(2) The board of county commissioners may call for bids for proposals for several kinds or types of materials for any of the improvements proposed, reserving the right to select the kind of type or materials to be used in making any or all of said improvements after the bids or proposals therefor shall have been opened, examined and declared.

Time and conditions—opening of bids.

"(3) The time fixed for the opening of the bids shall not be less than fifteen days from the time of the final publication of said notice. All proposals or bids offered shall be accompanied by a check payable to the board of county commissioners, certified by a responsible bank, for an amount which shall not be less than ten per cent of the aggregate of said proposal. Such proposals or bids shall be delivered to the county clerk, and the board of county commissioners shall, in open session, publicly open and examine and declare the same; provided, however, that no proposal or bid shall be considered unless accompanied by said check.

Power to reject or award.

"(4) The board of county commissioners may reject any and all proposals or bids should it deem this for the

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public good, and also the bid of any party who has been delinquent or unfaithful in any former contract with the board of county commissioners, and shall reject all proposals, other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for such work or improvement, to the lowest responsible bidder at the prices named in his bid.

Board may re-advertise within six months.

"(5) If the bids are rejected or no bids are received the board of county commissioners may within six months thereafter re-advertise for proposals or bids for the performance of the work as in the first instance, without further proceedings, and thereafter proceed in the manner in this section provided, and shall thereupon return to the proper parties the checks accompanying the bids so rejected, but the check accompanying said accepted proposal or bid shall be held by the county clerk until the contract for doing said work as hereinafter provided has been entered into, either by the said lowest bidder, or by the owners of over fifty per cent of frontage, whereupon said certified check shall be returned to said bidder, but if said bidder fails, neglects or refuses to enter into the contract to perform said work and improvements as hereinafter provided, then the certified check accompanying his bid, in the amount herein mentioned, shall be declared to be forfeited to the said board of county commissioners, and shall be collected by it, and paid into the general fund of the county.

Disposition of certified checks accompanying bids.

Board may contract to purchase existing improvement.

"(6) If the proposed improvement consists of the purchase of an existing improvement, the board of county commissioners may, in their discretion, after the creation of the said special improvement district, and after ordering the proposed improvement, enter into a contract for the purchase of said improvement, upon such terms as they deem just, without advertising for bids, or proposals, provided, however, that the total purchase price shall not exceed the amount set forth in the notice required by section 16-1602."

Amending clause.

Section 4. Section 16-1626, Revised Codes of Montana, 1947, is amended to read as follows:

"Owner" defined.

"16-1626. (4599) **Definition of terms.** 1. The person owning the fee, or the person to whom, on the day the action is commenced, appears the legal title to the lot and lands, by deed duly recorded in the county recorder's

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office in each county, or the person in possession of lands, lots or portions of lots, or buildings under claim, or exercising acts of ownership over the same for himself, or as the executor, administrator or guardian of the owner, shall be regarded, treated and deemed to be the 'owner' for the purpose of this act, according to the intent and meaning of that word as used in this act. And in case of property leased, the possession of the tenant or lessee holding and occupying under such persons shall be deemed the possession of such owner.

"Work," "improved" and "improvements" defined.

"2. The words 'work,' 'improved' and 'improvements,' as used in this act, shall include all work or the securing of property, *by purchase or otherwise,* mentioned in this act, and also the construction, reconstruction, maintenance and repairs, of all or any portion of said work.

"Incidental expenses" defined.

"3. The term 'incidental expenses,' as used in this act, shall include the compensation of the engineer selected as hereinbefore provided for work done by him; also the cost of printing and advertising, as provided in this act; also the expenses of making the assessment for any work authorized by this act. All demands for incidental expenses in this subdivision shall be presented to the county clerk by itemized bill, duly verified by oath of the demandant.

Required publication.

"4. The notices, resolutions, orders or other matter required to be published by the provisions of this act, shall be published in a daily newspaper or a semi-weekly newspaper, or weekly newspaper, to be designated by the board of county commissioners, as often as the same is issued during the period specified for said publication, and no other statute shall govern or be applicable to publications herein provided for; provided, however, that in case there is no daily, semi-weekly or weekly newspaper printed or circulated in any such county, then such notices, resolutions, orders or other matters as are herein required to be published in a newspaper, shall be posted and kept posted for the same length of time as required herein for the publication of the same in a daily, semi-weekly or weekly newspaper, in three of the most public places in each voting precinct, except herein otherwise specifically provided. Proof of the publication or posting of any notice provided for herein shall be made by affidavit of the owner, publisher, printer or clerk of the newspaper, or of the poster

Required posting.

Proof by affidavit.

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of the notice. No publication of notice other than that provided for in this act shall be necessary to give validity to any of the proceedings provided therein. The word "Twice" defined. 'twice,' as used in this act, referring to the number of times, notices, resolutions or other matter shall be published, shall be held to mean publication of the same in two entire issues of the newspaper, one being on one day and the other issue being on a subsequent day of the same or subsequent week.

"Muncipality" and "city" defined. "5. The word 'municipality' and the word 'city,' as used in this act, shall be understood and so construed as to include, and are hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized for municipal purposes.

"Paved" and "re-paved" defined. "6. The word 'paved' or 're-paved,' as used in this act, shall be held to mean and include pavement of stone, whether paving blocks or macadam, or of bituminous rock or asphalt, or of wood, brick or other material, whether patented or not, which the board of county commissioners by rule or resolution shall adopt.

"Street" defined. "7. The word 'street,' as used in this act, shall be deemed and is hereby declared to include avenues, highways, lanes, alleys, crossings or intersections, courts and places, which have been dedicated and accepted according to the law or in common and undisputed use by the public for a period of not less than five years next preceding, and the term 'main street' means such actually opened "Blocks" defined. street or streets as bound a block; and the word 'blocks,' whether regular or irregular, shall mean such blocks as are bounded by main streets, or partially by a boundary line of the city.

"Engineer" defined. "8. The term 'engineer,' designated in the petition as used in this act, shall be understood and so construed as to mean the person, firm or corporation whose name is designated and approved by the board of county commissioners as the engineer in the original petition asking for the improvement and may be the county surveyor.

"Board of county commissioners" defined. "9. The term 'board of county commissioners' is hereby declared to include any body or board which under the law is the legislative department of the government of the county.

"10. The terms 'clerk,' 'county clerk,' as used in this

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act, are hereby declared to include any person or officer who shall be clerk of the said board of county commissioners. "Clerk" and "county clerk" defined.

"11. The term 'quarter block,' as used in this act, as to irregular blocks, shall be deemed to include all lots or portions of lots having any frontage on either intersecting street half way from such intersection to the next main street, or when no main street intervenes all the way to the boundary line of any city. "Quarter block" defined.

"12. The term 'county treasurer,' as used in this act, shall be held to mean and include any person who, under whatever name or title, is the custodian of the funds of the county. "County treasurer" defined.

"13. The term 'street intersection,' wherever used in this act, shall be held to mean that parcel of land at the point of juncture or crossing of intersecting streets which lies between lines drawn from corner to corner of all lot lines immediately cornering at such juncture." "Street intersection" defined.

Approved March 2, 1961.

CHAPTER 135

An Act to Amend Sections 89-1803 and 89-1804 of the Revised Codes of Montana, 1947, Relating to the Rate of Charge and Apportionment of Annual Tax Levy Against Lands in Irrigation Districts and Providing for a Minimum Charge of Five Dollars ($5.00) Against Any Separately Owned Tract of Land Within an Irrigation District Regardless of the Size of Said Tract; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 89-1803 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"89-1803. (7234) **All irrigable lands chargeable alike.** All irrigable lands in each irrigation district, except such lands as have been included within such district on account of the exchange or substitution of water, under the Irrigable lands chargeable alike subject to $5.00 minimum charge.

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provisions of section 89-1611, shall pay at the same rate for all purposes for which said lands are charged; *providing however, that there may be a minimum charge of five dollars ($5.00) against each separately owned tract of land regardless of its size, as hereinafter provided in section 89-1804 of this code as amended;* and except that whenever water used for the irrigation of any lands within an irrigation district shall be obtained by pumping to different elevations, the cost of maintenance, operation, and pumping to each separate elevation shall be apportioned and levied upon the lands lying under the ditch or ditches running from that particular elevation, in such manner as may be determined fair and equitable by the board of commissioners after considering the facts in each case. Such apportionment shall be made by the board of commissioners and included each year in the assessment provided for by section 89-1804 of this code as amended.

Pumping costs apportioned.

"The amount of such assessment for maintenance, operation, and pumping of water to each separate elevation, whenever there are different elevations, shall be determined by the board of commissioners in such manner, and upon such notice to the persons interested in said district, as said board in its rules and regulations may provide; and provided further, that where contract shall have been made with the United States, the lands within the district, whether originally included or later annexed to the district, shall pay in accordance with the federal reclamation laws and the public notices, orders, and regulations issued thereunder, and in compliance with any contracts made by the United States with the owners of said lands; and in compliance further, with the contract between the districts and the United States; and provided further, that where the works necessary for the completed project shall be constructed progressively, over a period of years, and that where a portion of the lands within the district are or can be irrigated one year or more before the completion of the entire project, then and in that case, such lands, so irrigated or that can be so irrigated through the built portion of the project, shall pay for the cost of operating that portion of the project serving them with irrigation water, and also shall pay such portion of the interest charges as its irrigable area bears to the irrigable area of the entire project; and in case of lands having appurtenant thereto a partial water right or par-

Assessment for costs upon notice subject to federal laws.

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tial rights in a system of irrigation other than that of the districts, the amounts payable shall be equitably apportioned."

Amending clause.

Section 2. That section 89-1804 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Annual tax levy subject to $5.00 minimum charge on each separately owned tract.

"89-1804. (7235) **Annual tax levy — Apportionment when tracts divided.** (1) On or before the second Monday in July each year the board of commissioners of each irrigation district organized hereunder shall ascertain the total amount required to be raised in that year for the general administrative expenses of the district, including the cost of maintenance and repairs, and the total amount to be raised that year for interest on and principal of the outstanding bonded or other indebtedness of the district, including any indebtedness incurred under any contract between the district and the United States accompanying which bonds of the district have not been deposited with the United States as in section 89-1301 provided, and shall levy against each forty-acre tract or fractional lot as designated by the United States public survey, or platted lot, if land is subdivided in lots and blocks (or where land shall be owned in less than forty-acre tracts or in less than the platted lot, then against each such tract) of land in the district, that portion of the said respective total amounts so to be raised which the total irrigable area of any such tract bears to the total irrigable area of the lands in the district, so that each acre of irrigable land in the district shall be assessed and required to pay the same amount as every other acre of irrigable land therein, unless otherwise specifically provided; *providing however, that the board of commissioners may make a minimum charge of five dollars ($5.00) against each separately owned tract of land, regardless of its size.*

Apportionment—divided ownership after levy.

"(2) In the event that the ownership of any such forty-acre tract, or other subdivision of land in the district, shall be divided after a special tax or assessment against the same has been levied, each or either of the owners of such tract or subdivisions shall be entitled to have such special tax or assessment equitably apportioned to and against said divisions of such tract or subdivisions, so that each owner shall be enabled to pay such special tax or assessment against his portion of such tract or sub-

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division, and have the same discharged from the lien thereof; *providing however, that in no event shall the charge against any separately owned tract of land be less than five dollars ($5.00).*

Limitation—$4.00 per acre maximum annual levy.

"(3) *Except that a minimum charge of five dollars ($5.00) may be charged against any separately owned tract of land, regardless of its size, when the irrigable land in a tract contains two (2) acres or more,* not more than four dollars per acre, against each irrigable acre of land in the district, shall be levied in any one year on account of administrative expenses and cost of maintenance and repairs, but this provision shall not invalidate any warrant lawfully issued or to be issued; provided, however, that this limitation shall not apply to any district supplying water by means of any system other than a gravity system.

Board may cancel levy—when.

"(4) Whenever the board of commissioners has provided for the payment of any indebtedness of the district by levy of a special tax or assessment, and thereafter makes provision for the payment of said indebtedness by the issuance of bonds, said board may cancel any portion or all of said levy theretofore made to raise funds to pay said indebtedness; and whenever said board has provided for the payment of any indebtedness of the district by the authorization of bonds and the levy of a special tax or assessment to pay the principal of and interest on said bonds, the thereafter cancels said issue of bonds as provided for in section 89-1707 said board may cancel any portion or all of said levy theretofore made to raise funds to pay the principal of or interest on said bonds so cancelled, and refund to the respective persons paying the same the funds, if any, in the custody of the county treasurer collected for the purpose of meeting the principal of and interest on such bonds so cancelled.

Three-year limitation on omitted assessments.

"(5) Any land or lands which may for any reason have escaped assessment in any previous year or years may be assessed or listed for the omitted years and omitted charges, in any subsequent year at the time of the making of the assessment in and for such subsequent year, but no such assessment shall be made later than three years after the occurrence of such omission."

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Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after passage and approval.

Approved March 2, 1961.

CHAPTER 136

An Act to Repeal Section 16-1621, Revised Codes of Montana, 1947, Relating to the Payment of Contracts for the Construction and Maintenance of Improvements in Rural Improvement Districts; to Amend Section 16-1620, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 3, Laws of 1955, and Section 7, Chapter 260, Laws of 1959, Relating to the Form and Terms and Use of Bonds and Warrants of Rural Improvement Districts; Providing That the Bonds and Warrants of Rural Improvement Districts Shall be Sold by the Board of County Commissioners to the Highest and Best Bidder and Payment of Contracts of Rural Improvement Districts Made From the Proceeds of Such Sale of Bonds and Warrants; Prescribing the Procedure to be Followed in Connection With the Sale of Such Bonds and Warrants; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That section 16-1621, Revised Codes of Montana, 1947, be, and the same is hereby repealed.

Amending clause.

Section 2. That section 16-1620, Revised Codes of Montana, 1947, as amended by section 1, chapter 3, laws of 1955, and section 7, chapter 260, laws of 1959, be, and the same is hereby amended to read as follows:

Form of special improvement district bonds or warrants.

"16-1620. (4593) **Form and terms of district warrants and bonds.** *Payment of contracts.* (1) All costs and expenses incurred in the construction or maintenance of any improvement specified in this act, in any improvement district shall be paid for by special improvement district bonds, or warrants. Such bonds or warrants shall be drawn in substantially the following form:

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Form of special improvement district bonds or warrants—continued.

"District No.....

"United States of America

"State of Montana

"Warrant or Dollars

"(Bond No.....) $.....

"Interest at the rate of.....per cent per annum, payable annually.

"Special Improvement District Coupon Warrant or Bonds

"....., Montana.

"Issued by the County of....., Montana.

"The county treasurer of.....County, Montana, will pay to....., or bearer, the sum of.....dollars, as authorized by Resolution No....., as passed on the.....day of....., 19....., creating or maintaining Special Improvement District No....., for the construction (or maintenance) of the improvements and work performed as authorized in said resolution to be done in said district, and all laws, resolutions and ordinances relating thereto, in payment of the contract in accordance therewith. The principal and interest of this warrant (or bond) are payable at the office of the county treasurer of.....County, Montana.

"This warrant (or bond) bears interest at the rate of .....per cent per annum from the date of the registration of this warrant (or bond), as expressed herein, until the date called for the redemption by the county treasurer. The interest on this warrant (or bond) is payable annually on the first day of.....of each year, unless paid previous thereto and as expressed by the interest coupons hereto attached, which bear the *signatures* of the chairman of the board of county commissioners and the county clerk.

"This warrant (or bond) is payable from the collection of a special tax or assessment which is a lien against the real estate within said improvement districts, as described in said resolution hereinbefore referred to.

"This warrant (or bond) is redeemable at the option of the county at any time there are funds to the credit of said special improvement district fund (construction and maintenance) for the redemption thereof, and in the manner provided for the redemption of the same.

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"It is hereby certified and recited, that all things required to be done precedent to the issuance of this warrant (or bond) have been properly done, happened and been performed in the manner prescribed by the laws of the State of Montana and the resolution and ordinances of the county of....., Montana, relating to the issuance thereof.

"Dated at....., Montana, this..... day of....., 19....., County of....., Montana.

"(SEAL)

"By....., chairman of the board of county commissioners.

"(SEAL)

"....County Clerk

"Registered at the office of the county treasurer of .....County, Montana this.....day of ....., 19.....

"....

"County Treasurer

"(2) And the same shall be drawn against the special improvement district fund created for the district, that is, either the construction or maintenance fund as the case may be, and shall bear interest not to exceed six per cent per annum from the date of registration until called for redemption or paid in full, interest to be payable annually on the first day of January of each year, unless the board of county commissioners prescribe another date. Such warrants (or bonds) shall bear the signatures of the chairman of the board of county commissioners and the county clerk, and shall bear the corporate seal of the county. They shall be registered in the office of the county clerk and the county treasurer, and, if interest coupons be attached thereto, they shall also be so registered, and shall bear the signatures of the chairman of the board of county commissioners and the county clerk. Said bonds shall be in denominations of one hundred dollars ($100.00) or fractions, or multiples thereof; and may be issued in installments, and may extend over a period of not to exceed twenty (20) years.

Warrants or bonds drawn against special improvement district fund.

Interest.

Signatures.

Registration.

Denominations.

20-year maximum period.

"(3) Such warrants (or bonds) shall be redeemed by the county treasurer when there are funds in the special improvement district fund against which said warrants

Redemption by county treasurer—when.

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(or bonds) are issued available therefor; provided that the county treasurer shall first pay out of the proper special improvement district fund, annually, the interest on all outstanding warrants (or bonds) on presentation of the coupons belonging thereto, and any funds remaining in the proper fund shall be applied to the payment of the principal and the redemption of the warrants (or bonds) in order of their registration; provided, further, that whenever there are any funds in any special improvement district fund, after paying the interest on such warrants (or bonds) drawn against said fund, the county treasurer shall call in for payment outstanding warrants (or bonds), which, together with the interest thereon to the date of redemption, will equal the amount of said fund on that date, which date shall be fixed by the county treasurer, who shall give notice by publication once in a newspaper published in the city, or, at the option of the county treasurer, by written notice to the holder or holders of such warrants (or bonds), if their address be known, of the number of warrants (or bonds), and the date on which payment will be made, which date shall not be less than ten days after the date of publication or of service of notice, and on which date so fixed, interest shall cease.

Board of county commissioners shall sell bonds or warrants on bid for cash.

"(4) The board of county commissioners shall provide for making payments for maintenance or improvements in any rural improvement district by the following method:

"The board of county commissioners shall sell bonds or warrants issued under the provisions hereof, in an amount sufficient to pay that part of the total cost and expense of making the improvement which is to be assessed against the property within the district, to the highest and best bidder therefor for cash, for not less than the face value of such bonds, or warrants, and including interest thereon, and shall use the proceeds of such sale in making payment to the contractor, or contractors, and such payment may be made either, from time to time, on estimates made by the engineer in charge of such improvements for the county, or upon the entire completion of the improvements and the acceptance thereof by the board of county commissioners. The provisions of sections 11-2313, 11-2314 and 11-2315, which relate to the notice of sale, publication of notice and manner and method of selling bonds by cities and towns, insofar as the same are applicable thereto and not in conflict with the provisions of this

Disposition of proceeds.

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section, shall apply to, govern and control the form of notice of sale, publication of notice and manner and method of selling such bonds or warrants.''

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 2, 1961.

CHAPTER 137

An Act to Amend Section 31-126, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 95, Laws of 1955, Relating to Persons Exempt From Licensing; Exempting Certain Drivers of Government Owned or Leased Vehicles; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 31-126, Revised Codes of Montana, 1947, as amended by section 1, chapter 95, laws of 1955, be, and the same is hereby amended to read as follows: Amending clause.

''31-126. **What persons are exempt from license.** The following persons are exempt from license hereunder: Persons exempt from driver license—requirements.

''1. Any *person who is a member of the Armed Forces of the United States while operating a motor vehicle owned by or leased to the United States Government and being operated on official business;*

''2. Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway;

''3. A nonresident who is at least fifteen (15) years of age and who has in his immediate possession a valid operator's license issued to him in his home state or country may operate a motor vehicle in this state only as an operator;

''4. A nonresident who is at least eighteen (18) years of age and who has in his immediate possession a valid chauffeur's license issued to him in his home state or country may operate a motor vehicle in this state either

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as an operator or chauffeur subject to the age limits applicable to chauffeurs in this state except that any such person must be licensed as a chauffeur hereunder before accepting employment as a chauffeur from a resident of this state;

"5. Any nonresident who is at least eighteen (18) years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than ninety (90) days in any calendar year, if the motor vehicle so operated is duly registered in the home state or country of such nonresident.

"6. A driver's license issued hereunder to any person who enters the United States armed forces, if valid and in force and effect at the time such person enters the service, shall continue in full force and effect so long as such service shall continue unless such license is sooner suspended, revoked or cancelled for a cause as provided by law, and for not to exceed thirty (30) days following the date on which holder of such driver's license is honorably separated from such service. During said thirty (30) day period, such license shall be valid only when in the immediate possession of the licensee while driving and the licensee has his discharge, separation, leave or furlough papers in his immediate possession."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1961.

CHAPTER 138

An Act to Amend Section 5 of Chapter 285, Laws of 1959, Designated as Section 69-3505 in the 1959 Pocket Supplement, Revised Codes of Montana, 1947, Replacement Volume Four, Relating to Equipment Requirements for Vessels, to Provide for Certain Exceptions for Equipment Standards for Life Preservers and Fire Extinguishers; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 5 of chapter 285, laws of 1959, designated as section 69-3505 in the 1959 pocket supplement,

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Revised Codes of Montana, 1947, replacement volume four, be amended to read as follows:

"Section 5. 69-3505. **Equipment.** Every vessel shall have aboard:

Life preserver requirements.

"(1) One life preserver, buoyant vest, ring buoy or buoyant cushion of the type approved by the commandant of the United States coast guard in good and serviceable condition for each person on board, provided, *in boats under twenty-six (26) feet in length,* that any person or persons, twelve (12) years of age or younger, occupying a vessel while such vessel is in motion, shall have a life preserver of a type approved by the commandant of the United States coast guard securely fastened to his or her person.

Light equipment.

"(2) When in operation during hours of darkness, a light sufficient to make the motorboat's or vessel's presence and location known to any and all other vessels within a reasonable distance.

Ventilation system.

"(3) If carrying or using any inflammable or toxic fluid in any enclosure for any purpose, and if not an entirely open motorboat or vessel, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during the time such motorboat or vessel is occupied by any person.

Fire extinguishers.

"(4) *All motorboats shall carry the minimum number of coast guard approved hand portable fire extinguishers, the number of which is to be determined by the Montana fish and game commission or a coast guard approved fixed fire extinguishing system, except, that motorboats less than twenty-six (26) feet in length of open construction, propelled by outboard motors, and not carrying passengers for hire need not carry such portable fire extinguishers or fire extinguishing systems.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1961.

CHAPTER 139

An Act to Amend Section 53-107, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 115, Laws

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of 1953; as Amended by Section 1, Chapter 200, Laws of 1955, Relating to Certificates of Registration and Ownership — Contents, Issuance, Entry, Assignment of Numbers — Owner's Registration Receipt to be Signed, Carried and Exhibited on Demand; Requiring Certificates of Registration Receipt to be Carried in All Vehicles, Excluding Passenger Cars, Pickups and Farm Trucks or to be Carried by Persons Driving or in Control of Such Vehicle; Striking Provision Which Exempts Carrying and Exhibiting Certificate During Reregistration or Transfer of Title; Fixing Penalty for Violation of Section; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-107, Revised Codes of Montana, 1947, as amended by section 1, chapter 115, laws of 1953; as amended by section 1, chapter 200, laws of 1955, be, and the same is hereby amended to read as follows:

Procedure for issuance of certificates of registration and ownership— motor vehicles.

"53-107. (1758) **Certificates of registration and ownership — Contents, issuance, entry, assignment of numbers — Owner's registration receipt to be signed, carried and exhibited on demand.** Upon completion of the application for registration, in quintuplet, on forms furnished by the registrar of motor vehicles, the county treasurer shall issue to the applicant two (2) copies of the application market 'Owner's Certificate of Registration and Tax Receipt,' one (1) of which shall be marked 'file copy,' and forward one (1) copy of the application to the registrar of motor vehicles who shall cause to be entered the information contained in said application upon the corresponding records of his office and shall furnish the applicant a certificate of ownership, and said owner shall at all times retain possession of the certificate of ownership, except when the same is being transmitted to and from the registrar of motor vehicles for endorsement or cancellation. In the event the said certificate of ownership be in the possession or under the control of any person other than the person entitled to operate and possess the motor vehicle the same must be surrendered to the person entitled to operate and possess such motor vehicle, upon demand, and refusal shall constitute a misdemeanor. At the same time, he shall issue to any conditional sales vendor, or other person holding the legal

Refusal to surrender declared misdemeanor.

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title to the vehicle, or any mortgagee thereof, or other lien holder, a statement of the filing of such conditional sales contract, mortgage or other lien, said certificate of registration and ownership shall meet the following requirements:

Form of certificate.

"The certificate of registration and the certificate of ownership shall each contain upon the face thereof: (1) the date issued, (2) the registration number assigned to the owner and the vehicle, (3) the name and complete address of the owner and the name and complete address of any conditional sales vendor, and also the name and address of any other lienor as shown by said application, (4) a description of the registered vehicle including the year built and serial number, if any, (5) any lien against such motor vehicle and the amount due at the date of registration, and such other statement of facts as may be determined by the registrar.

Correction of error.

"Upon receipt of the application the registrar shall make a recheck of the application and in the event that there is any error in the application it may be returned to the county treasurer to effectively secure the correction of such error, who shall return the same to the registrar of motor vehicles.

"The reverse side of the certificate of ownership shall contain a form of notice to the registrar of a transfer of title or interest of the owner and such other statement on forms as may be determined by the registrar.

File copy to be exhibited on demand.

"*File copy of* owner's certificate of registration receipt to be signed, carried, and exhibited on demand. Every owner, except owners of passenger cars, pickups and farm trucks upon receiving a registration receipt shall write his signature thereon with pen and ink in the space provided. Every such registration receipt or a notarized photostatic copy thereof or a duplicate thereof furnished by the registrar of motor vehicles shall at all times be carried in the vehicle, except passenger cars, to which it refers or shall be carried by the person driving or in control of such vehicle, except passenger cars, who shall display the same upon demand of a police officer or any officer or employee of the registrar of motor vehicles or the highway department.

Commercial vehicles must carry file copy.

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"Motor vehicle" defined.

"The term 'motor vehicle' includes automobile, truck, motorcycle, semitrailer, trailer and trailer-house.

Trailers to be assigned numbers by registrar.

"Any trailer, semitrailer or trailer-house which does not have a manufacturer's or other identifying number thereon shall be assigned an identification number by the registrar upon registration of such motor vehicle. The owner or other person lawfully in possession of such motor vehicle shall stamp such number so assigned by the registrar upon the principal right frame member of said motor vehicle near the front *end* thereof where it may be clearly and readily seen, and said stamping shall be promptly accomplished after notice of the assigned number by the registrar. The registrar may withhold registration until satisfactory proof, by affidavit, of such stamping is filed with him.

Penalty for violation.

"Any person violating this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding twenty-five dollars ($25.00)."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1961.

CHAPTER 140

An Act to Amend Section 31-131, Revised Codes of Montana, 1947, Relating to Application for Drivers License of Minors; Authorizing Surviving Parent or Custodian of Minor to Sign Application for Licensee; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-131, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Application of minor for driver license—requirements.

"31-131. **Application of minors.** (a) The application of any person under the age of eighteen (18) years for an instruction permit or operator's license shall be signed and verified before a person authorized to administer oaths by both the father and mother of the applicant, if both are living and have custody of him, *or by the sur-*

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viving parent, or in the event neither parent is living *or has custody,* then by the person or guardian having such custody or by an employer of such minor, or in the event there is no guardian or employer then by other responsible person who is willing to assume the obligation imposed under this act upon a person signing the application of a minor.

Negligence or wilful misconduct imputed to signer —liability.

"(b) Any negligence or wilful misconduct of a minor under the age of eighteen (18) years when driving a motor vehicle upon a highway shall be imputed to a person who has signed the application of such minor for a permit or license, which person shall be jointly and severally liable with such minor for any damages caused by such negligence or wilful misconduct (except as otherwise provided in sub-paragraph (c) of this section).

No liability where proof of financial responsibility is deposited.

"(c) In the event a minor deposits or there is deposited upon his behalf proof of financial responsibility in respect to the operation of a motor vehicle owned by him, or if not the owner of a motor vehicle, then with respect to the operation of any motor vehicle, in form and in amounts as required under the motor-vehicle financial responsibility laws of this state, then the board may accept the application of such minor when signed by one parent or the guardian of such minor, and while such proof is maintained such parent or guardian shall not be subject to the liability imposed under sub-paragraph (b) of this section."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1961.

CHAPTER 141

An Act to Provide for the Restoration, Preservation, and Maintenance of the Old Governor's Mansion, Helena, Montana, as a Period Home Museum and to Vest Control of the Old Governor's Mansion in the Board of Trustees of the Historical Society of the State of Montana, Under Certain Conditions; Authorize the Said Board to Collect Fees and Charges for the Use of Said Mansion, and Deposit the Same to the Credit of the

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"Old Governor's Mansion Fund" and Providing This Act Shall be in Force and Effect After Its Passage and Approval Until March 1, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Old governor's mansion to be preserved as museum.

Section 1. **Purpose.** That for the purpose of restoring, preserving, and maintaining that property at 304 North Ewing Street, Helena, Montana (hereinafter referred to as the old governor's mansion) as a period home museum, and of providing for its use and enjoyment, thereby contributing to the cultural and recreational life of the people, the board of trustees of the historical society of the State of Montana (hereinafter referred to as the board) is hereby vested with the duties and powers hereinafter set forth under the conditions as in this act provided.

Powers and duties vested in board of trustees of historical society.

Section 2. **Powers and duties.** The board shall have jurisdiction, custody and control of the old governor's mansion under the conditions as herein stated. The board is hereby authorized and directed to enter into such contracts and expend such moneys as may be necessary for the restoration, preservation, and maintenance of the old governor's mansion as a period home museum, provided, however, that no contract shall be entered into or other obligation incurred under the provisions of this act until moneys have been appropriated therefor by the legislature or are otherwise made available as herein provided. The board shall also have power in its discretion to receive and accept in the name of the state any gifts, bequests, or contributions of money or other property to be expended or used for any of the purposes of this act.

Old governor's mansion fund—fees and charges.

Section 3. **Fees and charges.** Old Governor's Mansion Fund. The board shall have power to levy and collect reasonable fees or other charges for the use of such privileges and conveniences as may be provided and to grant such leases and concessions as it may deem advisable. All moneys derived from the activities of the board hereunder and from gifts, bequests and endowments hereunder shall be deposited in the state treasury to the credit of the old governor's mansion fund, which fund is hereby created, and shall constitute a continuing fund to be

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used and expended by the board for any of the purposes of this act.

Board may accept co-operation.

Section 4. **Co-operation.** In carrying out the provisions of this act, the board may seek and accept the co-operation of other state and local agencies, agencies of federal government, and private organizations and individuals.

Board not responsible until funds are available.

Section 5. **Conditions.** In no event shall the board become responsible in any way under this act for the restoration, preservation and maintenance of the old governor's mansion until such time as funds are available, either from public or private sources, to carry out the purposes as herein stated.

Effective until March 1, 1963.

Section 6. **Effective date.** This act shall be in full force and effect from and after its passage and approval, and shall remain in effect until March 1, 1963.

Approved March 3, 1961.

CHAPTER 142

An Act Amending Section 82-1131, Revised Codes of Montana, 1947, Relating to Bidding Requirements for Construction, Alteration and Improvement of Buildings and Grounds on Behalf of the State of Montana; Raising Minimum Per Job Figure From Five Hundred Dollars ($500.00) to One Thousand Dollars ($1,000.00), and Requiring All Jobs Over Said Figure to be Done Only After Competitive Bidding, Excepting From the Effect of This Act the Provisions of Section 80-731, Revised Codes of Montana, 1947, and Further Excepting Inmates at the Montana Industrial School at Miles City, Montana, the Montana State Training School at Boulder, Montana, and the Montana Children's Center at Twin Bridges, Montana; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 82-1131, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

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Unlawful to contract state building work except on competitive bids where amount exceeds $1,000.

"82-1131. (259.1) **Advertising for bids — When required — Contracts — Requirements — Advertising — Prohibiting subterfuge to avoid intent of this act.** *In all cases,* it shall be unlawful for the board of examiners or any offices, departments, institutions, or any agent of the State of Montana acting for or in behalf of said state *to do, to cause to be done, or* to let any contract for the construction of buildings or the alteration and improvement of buildings and *adjacent* grounds on behalf of and for the benefit of the state where the amount involved is *one thousand dollars ($1,000.00)* or more without first advertising in at least one (1) issue each week for three (3) consecutive weeks in two (2) newspapers published in the state, one (1) of which must be published at the seat of government, and the other in the county where the work is to be performed calling for sealed bids to perform such work and stating the time and place, when and where such bids will be considered. *All such jobs of work shall be done, caused to be done, or contracted for only after competitive bidding. In any case, if no bid for such job of work shall be accepted such work shall not be done or accomplished, and the same shall be readvertised, from time to time, until the same shall be awarded to a qualified competitive bidder therefor."*

Readvertising required until award.

Repealing clause.

Section 2. **Repeal clause.** Any act or part of any act in conflict herewith, in whole or in part, is hereby repealed to the extent of such conflict. The provisions of this act shall not repeal to any extent the provisions of section 80-731, Revised Codes of Montana, 1947, and, further, this act shall not apply to work done by inmates at the Montana industrial school at Miles City, Montana, or the Montana state training school at Boulder, Montana, or the Montana children's center at Twin Bridges, Montana.

Effective immediately.

Section 3. **Effective date.** This act shall be in full force and effect from and after passage and approval.

Approved March 3, 1961.

CHAPTER 143

An Act to Amend Section 5-1117 of the Revised Codes of Montana, 1947, Relating to the Disposition of Un-

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claimed Funds of Liquidated Banks by Providing for Deposit of Funds and Accumulated Interest in the General Fund; Providing for Application to the State Board of Examiners by Depositors or Creditors for Amounts Due; Providing for Transmission to the Legislative Assembly of Approved Applications; and Providing for Deposit of Funds and Accumulated Interest on Hand in the General Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5-1117, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Disposition of unclaimed funds of liquidated banks—certification.

"5-1117. The superintendent shall certify to the treasurer of the state a complete list of funds remaining in his hands uncalled for, which have been left in his hands in his official capacity, in trust for depositors in and creditors of any liquidated bank after they have been held by him for six months from the date of the final liquidation of the institution. Along with this certificate, he shall transmit to the treasurer of the state the funds with accumulated interest thereon, which he has so held in trust for six months. A copy of such certificate shall also be filed with the state auditor, who shall make a record thereof.

Deposit in general fund.

"The state treasurer shall deposit such funds and interest in the general fund of the State of Montana.

Application for payment of claim.

"Any depositor or creditor of a liquidated bank who has not been paid the amount standing to his credit as thus certified to the state treasurer, may apply to the *state board of examiners* for the amount due him. The depositor or creditor shall make an affidavit and offer proof of his identity and of the amount due him by the liquidated bank. When satisfied as to the correctness of the claim and of the identity of the person, the *state board of examiners* shall forward it to the auditor, who shall audit the same and if found correct *so certify to the state board of examiners, who, if they approve it, shall transmit it to the legislative assembly with a statement of their approval.*

Affidavit and proof of identity.

State treasurer to deposit unclaimed funds in general fund.

"Section 2. *Disposition of unclaimed funds previously transmitted to the state treasurer. All funds and accumulated interest thereon heretofore transmitted to the state*

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treasurer under the provisions of section 5-1117 of Replacement Volume 1, Part 2, of the Revised Codes of Montana, 1947, shall be deposited by the state treasurer in the general fund of the State of Montana.''

Approved March 3, 1961.

CHAPTER 144

An Act to Amend Section 81-1707, Revised Codes of Montana, 1947, Relating to Rule Making Power of the State Board of Land Commissioners; Requiring Formulation, Publication and Distribution of Rules and Regulations and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 81-1707, Revised Codes of Montana, 1947, is amended to read as follows:

State board of land commissioners shall regulate state oil and gas leases.

''81-1707. (1882.7) **Rules and regulations** — *Printing — Distribution.* The board shall have the power and authority to prescribe such rules and regulations and to do and perform all acts and things not inconsistent with the enabling act, the constitution, and the statutes of this state as it may deem necessary and proper relating to the leasing of state lands for oil and gas exploration and development. *The board shall formulate rules and regulations, not inconsistent with law, governing the leasing of state lands for oil and gas exploration and development which shall be compiled and printed periodically. Copies of the rules and regulations and notices of changes therein shall be made available to any person desiring a copy thereof at a reasonable cost to be fixed by a rule of the board.''*

Rules and regulations shall be printed.

Copies available at reasonable cost.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1961.

CHAPTER 145

An Act to Amend Section 3-202, Revised Codes of Montana, 1947, Relating to Fees to be Paid State Sealer of

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Weights and Measures for Inspection of Scales; Providing for an Inspection Fee of Eight Dollars ($8.00) for Automatic or Hopper Shipping Scales up to and Including Ten (10) Ton Capacity; Providing for Raising the Fee for Inspection of Scales With a Capacity of Up to and Including Ten (10) Tons From Eight Dollars ($8.00) to Ten Dollars ($10.00); Providing for an Effective Date and Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 3-202, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Scale inspection fees to be paid by owner.

"3-202. (3575.2) **Fees to be paid to state sealer of weights and measures.** It shall be the duty of each person, firm, co-partnership, or corporation owning or in possession of a scale or scales to pay to the state sealer of weights and measures or his deputies at the time of each inspection of such scale or scales, the following inspection fees: For each railroad track scale the sum of fifteen ($15.00) dollars; grain shipping hopper scale with a capacity of forty thousand (40,000) pounds or over, twenty-five ($25.00) dollars; *automatic or hopper shipping scale up to and including ten (10) ton capacity, eight ($8.00) dollars;* wagon scale, truck scale, coal scale, dump scale, beet scale, and stock scale, up to and including ten (10) ton capacity, *ten ($10.00) dollars,* over ten (10) ton up to and including twenty (20) ton capacity, twelve ($12.00) dollars, two-section scale with a capacity over twenty (20) ton, twenty ($20.00) dollars; three (3) or more section twenty (20) ton and over capacity, twenty-five ($25.00) dollars; for each dormant platform scale up to thirty-five hundred (3500) pounds, meat track scale and dial scale with a capacity of five hundred (500) pounds to one thousand (1,000) pounds, two ($2.00) dollars; built-in warehouse scales with a capacity from thirty-five hundred (3500) pounds to ten thousand (10,000) pounds capacity, five ($5.00) dollars each portable scale, hanging scale and commercial person weighing scale, two ($2.00) dollars; grain testers and other small scales used for weighing and testing grain in grain elevators, or warehouses, fifty (50¢) cents; all counter scales with a capacity of one (1) to ten (10) pounds, fifty (50¢) cents; all

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counter scales with a capacity of over ten (10) pounds, one dollar and twenty-five cents ($1.25).

Penalty for failure to pay inspection fees.

"Where fees are not paid within thirty (30) days after inspection, there shall be an added charge of fifty per cent (50%) of the inspection fee and the equipment will be sealed and removed from service by the sealer of weights and measures or his deputies, until such fees have been paid.

Penalty for use prior to payment.

"Anyone found using a weighing device or petroleum measuring device or removing the said seal before all inspection fees have been paid, shall upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than ten ($10.00) dollars nor more than one hundred ($100.00) dollars.

Sealer of weights and measures shall fix fees.

"The sealer of weights and measures, shall by proper regulation, fix inspection fees for any scales, weights, measures, weighing and computing devices and for special services not covered by the foregoing schedule of fees."

Repealing clause.

Section 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1961.

CHAPTER 146

An Act to Amend Section 60-201, Revised Codes of Montana, 1947, as Amended by Section 2, Chapter 131, Session Laws of Montana, 1955, and as Amended by Section 1, Chapter 96, Session Laws of Montana, 1957; Relating to Petroleum Products Dealer's License; by Requiring Licenses of All Persons Engaged in the Business of Selling or Offering, or Advertising for Sale, or in the Business of Refining or Manufacturing or Keeping for Sale, Petroleum Products Regardless of the Intended Use of the Products; Providing an Effective Date and Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 60-201, Revised Codes of Mon-

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tana, 1947, as amended by section 2, chapter 131, Session Laws of Montana, 1955, and as amended by section 1, chapter 96, Session Laws of Montana, 1957; be, and the same is hereby amended to read as follows:

"60-201. (3913.1) **Petroleum products dealer's license.** All persons, firms, copartnerships, corporations, trusts or agencies engaged, directly or indirectly, in the business of selling or offering or advertising for sale or in the business of refining or manufacturing or keeping for sale within the State of Montana any gasoline, kerosene, distillate, road oil, fuel oil, or any oil or gas or oil and gas product, lubricating oil and greases, shall make application to the state sealer of weights and measures of Montana, upon such blank forms as may be provided by said state sealer of weights and measures for the right to do business in the State of Montana and the making of such application shall be a condition precedent to the right of any such person, firm, copartnership, corporation, trust or agency to transact any such business within the State of Montana and upon the making and filing of such application and the payment of the proper fee, a license which shall be nontransferable shall issue to the applicant.

Petroleum products dealer must apply to state sealer for license to do business.

"Such persons, firms, copartnerships, corporations, trusts or agencies are hereinafter, for brevity, designated dealers, and the term 'dealers' whenever used herein, shall include all persons, firms, copartnerships, corporations, trusts or agencies described in this section."

"Dealers" defined.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 3, 1961.

CHAPTER 147

An Act to Amend Section 90-129, Revised Codes of Montana, 1947, as Amended by Section 1, of Chapter 78, of the Session Laws of Montana, of 1959, Relating to the Authority of the State Sealer of Weights and Measures

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to Inspect and Try Devices Used to Weigh or Measure and Providing the Penalty for Violation of the Act; by Providing That the Use of Any Device for Weighing or Measuring Without the Seal of the State Sealer is a Misdemeanor; Providing That the Device May be Operated for a Period Not to Exceed Sixty (60) Days where a Temporary Permit Has Been Issued to the Operator of the Device by the State Sealer of Weights and Measures; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 90-129, Revised Codes of Montana, 1947, as amended by section 1, of chapter 78, of the Session Laws of Montana, of 1959, be, and the same is hereby amended to read as follows:

Authority of state sealer of weights and measures to inspect.

"90-129. (4243) **Authority to inspect weighing and measuring devices and penalty for tampering with seal.** The state sealer of weights and measures, or his deputies shall have power to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of any kind, instruments or mechanical devices for measurement, and the tools, appliances, or accessories connected with any and all of such instruments or measurements, used, kept for use, sold, offered for sale, or kept for sale, or employed within the state by a proprietor, agent, lessee or employee in determining the size, quantity, extent, area or measurement of quantities, things, produce, articles for distribution or consumption, offered or submitted by such persons for sale, hire, or award. Provided also, that the state sealer of weights and measures, or his deputies, shall at least once a year and as often as may be deemed necessary, try and prove all computing scales and other devices having a device for indicating or registering the price as well as the weight of the commodity offered for sale. Computing devices, which may be used by any person at any place within this state, shall be tested as to the correctness of both weight and arithmetical values indicated by them.

Duty to test computing devices.

Power to inspect and classify petroleum measuring devices.

"The state sealer of weights and measures, or his deputies shall have in addition to the above mentioned powers, the power to inspect and classify all meters, measuring, gauging or testing devices and apparatus used in connec-

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tion with the wholesale and retail distribution of petroleum and petroleum products, and may prescribe suitable standards of accuracy for such meters and measuring devices, conformable to the standards fixed by the United States bureau of standards for such devices.

Unlawful to use devices without seal.

"It shall be unlawful to operate or use any gasoline pump, meter, or petroleum measuring devices such as, but not limited to, retail pump meters, wholesale meters, tank markers or measuring cans, unless the measuring devices have attached to the adjustment mechanism a seal placed thereon by the state sealer of weights and measures or his deputies, or a repairman certified by the state sealer of weights and measures. Provided, however, that the device may be operated for a period not to exceed sixty (60) days if a temporary permit has been issued to said operator of the device by the state sealer of weights and measures. Any person found guilty of violating this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00)."

Subject to temporary permit.

Penalty for violation.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1961.

CHAPTER 148

An Act Amending Section 92-104, Revised Codes of Montana of 1947 as Amended by Chapter 231 of the Laws of Montana of 1959, Relating to the Salary of the Appointed Member of the Industrial Accident Board and Repealing All Acts or Parts of Acts in Conflict Herewith, and Containing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-104 (2819), Revised Codes of Montana of 1947, as amended by chapter 231 of the laws of Montana of 1959 be amended to read as follows:

Industrial accident board created.

"92-104 (2819) **Industrial accident board — Compensation — Terms and salaries.** There is hereby created a board to consist of three (3) members. The commissioner

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of labor and industry shall be one (1) member, the director of the bureau of vocational rehabilitation shall be one (1) member, and one (1) member shall be appointed by the governor, by and with the consent of the senate. The board shall be known as the industrial accident board and shall have the powers, duties, and functions hereinafter conferred. The term of office of the appointed member of the board shall be four (4) years and until his successor shall have been appointed and confirmed. He shall receive an annual salary of *nine thousand and five hundred dollars ($9,500.00),* payable monthly and shall be chairman of the board. The board shall elect one of their own number as treasurer of the board.''

Term of appointed member—salary.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 3, 1961.

CHAPTER 149

An Act to Provide for the Distribution of Fines Collected by District Courts for the Unlawful Operation of Motor Vehicles by Children Under the Age of Eighteen (18) Years; Providing for Time of Such Distribution; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Disposition of fines collected from minor drivers.

Section 1. All fines collected by the district courts from children under eighteen (18) years of age, for unlawful operation of motor vehicles resulting from traffic summonses issued by the peace officers of the cities, counties, or by highway patrolmen shall be retained by the county treasurer of the county in which the offense occurred and at the end of each month distributed as follows:

City general fund.

(a) Fines collected as the result of summonses issued by city police officers shall be distributed to the city in which the police officer is employed, and credited to the city general fund;

County road fund.

(b) Fines collected as the result of summonses issued

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by county peace officers shall be retained by the county treasurer and credited to the county road fund;

(c) Fines collected as the result of summonses issued by state highway patrolmen shall be paid to the state treasurer of Montana and by him credited to the general fund of the state. State general fund.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 3, 1961.

CHAPTER 150

An Act to Provide That State Institutions, County Buildings and Public School Buildings Which Use Coal for Heating Shall Use Montana Native Bituminous or Lignite Coal; Providing Exception in Certain Instances.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The various state institutions, county buildings and public school houses in the State of Montana, which use coal for heating, shall use Montana native bituminous or lignite coal. No official shall purchase for use in such institutions, county buildings and public schools any coal other than that produced from the coal mining properties within the boundaries of this state. State institutions using coal heat must use Montana coal.

Section 2. This act shall not be construed, however, as prohibiting the use of wood or its products, gas, oil, or oil products, for fuel, in any area of Montana, where such wood, or its products, gas, oil or oil products, are being used for fuel, in state institutions, county buildings and public school houses, and shall also not prohibit the conversion of a heating system using coal to a heating system using wood, or its products, gas, oil or its products, in the above mentioned institutions, county buildings and public school houses. It shall also not prohibit the use of coal from outside the State of Montana, if the comparative cost of such coal, is not greater than that of the native coal. Exceptions allowed.

Approved March 3, 1961.

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CHAPTER 151

An Act to Amend Sections 75-1728, 75-1815, 75-1816, 75-3618, 75-4533, 75-4534, 75-4535 and 75-4602, and to Repeal Section 75-4536, Revised Codes of Montana, 1947, Relating to Joint School Districts; Designating Officials Responsible for Budget Purposes; Requiring Reports to be Made to Officials in All Counties Concerned; Providing Procedures for Budgeting; Providing a Method for Determining the Levies Required; Providing for Distributing County Funds to Joint Districts; Providing a Formula for County Equalization; Providing for Fixing Tax Levies; Providing for Apportioning Financing Responsibility for a Joint District High School in a High School District; Containing a Repealing Clause; and Fixing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1728, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Officials of joint school districts designated.

"75-1728. (1019.24) **Budget supervisors and tax for joint school districts.** In the case of a joint school district when all of the schools are located in one (1) county, the county superintendent, the board of school budget supervisors and the county treasurer of the county in which the school or schools of the district are located, shall be the county superintendent, the budget board and the county treasurer to perform the duties imposed by this act with reference to the budgets for such joint districts. When schools of a joint district are located in both counties the superintendent of schools, the budget board of the county and the county treasurer to perform the duties imposed by this act with reference to the budget for such joint district shall be designated by the state superintendent of public instruction.

County treasurer to receive state funds.

"The county treasurer for the joint district, as herein determined, shall be the county treasurer to receive any disbursements of state funds made for the joint district in accordance with the laws of the state."

Amending clause.

Section 2. That section 75-1815, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

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"75-1815. (1036) **Same — Apportionment of school money.** The trustees and teachers of joint districts must make to the superintendent of each county in which the district is located the reports which other trustees and teachers are required to make, and also the number of pupils attending the school from each county, and all other acts which from their nature should be separately kept and done, as if each portion of said joint district belonging to each county were an entire district in the respective counties. The teachers of such joint district, *in compliance with the provisions of section 75-2519, shall record their teaching certificates with* the superintendent of the county in which the schoolhouse is located."

Separate reports to each county of joint district.

Certificates recorded where.

Section 3. That section 75-1816, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"75-1816. (1036.1) **Determination of levy in joint school districts.** The board of school trustees of each joint school district *shall consider, prepare and adopt a preliminary budget according to the provisions of section 75-1706, provided that a copy of such budget shall be transmitted* to the county superintendent of schools of each county in which any part of such joint school district is situated. The county superintendents of all such counties must, either by correspondence, meetings, or in some other manner, ascertain and determine the number of mills which should be levied in such joint school district for each fund for which a levy is to be made. After ascertaining and determining the number of mills which should be levied for each such fund, in the manner herein provided, all such county superintendents of schools shall make and sign a joint statement, addressed to the board of county commissioners of each county in which a part of the joint school district is situated, setting forth the number of mills which should be levied for each fund, as so ascertained and determined by such county superintendents, by the boards of county commissioners of such counties, and shall deliver or transmit one copy of such statement to each such board of county commissioners not later than the Saturday immediately preceding the second Monday in August.

Procedure for determination of levy in joint school districts.

"The number of mills to be levied on all of the property of such joint district for each tax-supported fund

Determination of levy subject to exceptions.

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shall be determined in accordance with the general laws pertaining to tax levies for school districts, provided that the following exceptions to general financing procedures shall be made:

Separate foundation programs—procedure for allocation of revenue.

"(a) In the general fund budget and solely for the purpose of determining the amounts of county equalization aid to be allocated to the joint district for its foundation program, the total foundation program amount of the joint district shall be considered as consisting of as many separate foundation programs as there are counties in which any portion of the joint district is situated. The amount of each such separate foundation program shall bear to the total amount of the foundation program the same relationship that the number of ANB pupils in the joint district residing in each such county bears to the total ANB of the joint district. To the requirements of each such separate foundation program shall be applied the estimated state interest and income payment based on the number of census pupils in such portion, plus the estimated revenue to be derived from a levy of five mills on the dollar of the taxable value of the property in such portion. The amount of county equalization aid to be allocated to such separate foundation program shall then be determined in accordance with the provisions of section 75-3618. Following the determination of the amount of county equalization aid from each county in which any portion of the joint district is situated, the total remaining requirements of the general fund budget shall be financed in accordance with the general laws, provided that, to receive state equalization aid, such joint district must apply to its foundation program all district revenue from the state permanent school fund and a district-wide five-mill levy.

Apportionment of transportation reimbursement.

"(b) In the transportation fund budget and solely for the purpose of apportioning among the counties wherein any portion of the joint district is situated the amount of county reimbursement for elementary transportation to be allocated to the joint district, the obligation for the total amount of such county reimbursement shall be distributed among such counties in the same proportion as the ANB of the joint district is distributed by residence in each such county."

Amending clause.

Section 4. That section 75-3618, Revised Codes of

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Montana, 1947, be, and the same is hereby amended to read as follows:

Separate distribution of moneys—formula for determination.

"75-3618. **Distribution of money available to districts — Formula for apportionment of county funds.** After the deduction of transportation reimbursements provided by law, the proceeds of the county ten (10) mill common school levy and the proceeds of the county ten (10) mill special tax for high schools, shall each be separately distributed by the county superintendent to the respective districts in the county, and the county high school if there be one, in proportion to their needs under the foundation financial program. In all cases in which the proceeds of such county levy and the five (5) mill tax for elementary schools provided for in section 75-1723, when added to all other funds available to the respective districts from the permanent school fund, and other funds which must be used in support of the foundation financial program are insufficient to finance the foundation financial program, the proceeds of the county common school levy and the proceeds of the county special tax for high schools shall each be separately distributed in accordance with the following procedure; provided, however, that cash balances to the credit of the district at the end of the school year, after authorized reserves have been subtracted as well as outstanding warrants, shall be used by the district to reduce the levies on the district for the general fund after the uniform district levy and county and state equalization aid have been received:

"1. Determine the ratio that the total funds available to all districts in the county in support of the foundation program (including proceeds of the county levy) bears to the total costs of the foundation program for all such districts.

"2. Determine the ratio that the total funds available to each district in support of the foundation program (excluding all proceeds of the county levy) bears to the cost of the foundation program of each such district.

"3. Districts in which the ratio as determined in (2) above exceeds the ratio in (1) above shall not be entitled to distribution of county funds but shall be excluded from further consideration under this section.

"4. After elimination of districts referred to in (3)

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above, determine the ratio that the total funds available to all remaining districts in the county in support of the foundation program (including proceeds of the county levy) bears to the total cost of the foundation program of all such remaining districts. Each remaining district shall then be entitled to distribution of funds from the county levy, which, when added to all other funds available to such district in support of the foundation program shall be sufficient to finance such proportionate part of its foundation program.

"5. No district school shall be deprived of its needful share of either county levy by reason of it being non-accredited.

"6. No territory situated within the county shall be excluded from the distribution of the school funds of the county solely because such territory lies within the boundaries of a joint district."

Amending clause.

Section 5. That section 75-4533, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Designation of officials—high schools of joint districts.

"75-4533. (1263.24) **Budget supervisors for joint school districts.** When a joint school district maintains high school in only one county the county superintendent of schools, the board of school budget supervisors and the county treasurer of such county shall be the superintendent, budget board and county treasurer to perform the duties imposed by this act with reference to high school budgets and accounts for such joint district. When high schools of a joint district are maintained in more than one county the county superintendent of schools, board of school budget supervisors, and county treasurer of the county to perform the duties imposed by this act with reference to the high school budgets and accounts of the joint district shall be designated by the state superintendent of public instruction. High school budgets for joint school districts shall be filed with the county superintendent of *each county in which any part of such joint school district is situated.*

County treasurer to receive state funds.

"The county treasurer for the joint district, as herein determined, shall be the county treasurer to receive any disbursements of state funds made for the high school of the joint district in accordance with the laws of the state."

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Amending clause.

Section 6. That section 75-4534, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Determination of amount of high school budget in joint districts.

"75-4534. (1263.25) **Determination of amount of budget in joint districts — Apportionment.** As soon as the preliminary high school budget for a joint district is filed with *the county superintendents of all counties in which any part of such joint district is situated, the county superintendents of all such counties must, either by correspondence, meetings, or in some other manner, ascertain and determine the number of mills which should be levied in such joint district for each fund of the high school budget for which a levy is to be made. After* Apportionment. *ascertaining and determining the number of mills which should be levied for each such fund, in the manner herein provided, all such county superintendents of schools shall make and sign a joint statement, addressed to the board of county commissioners of each county in which a part of the joint school district is situated, setting forth the number of mills which should be levied for each fund, as so ascertained and determined by such county superintendents, by the boards of county commissioners of such counties, and shall deliver or transmit one copy of such statement to each such board of county commissioners not later than the Saturday immediately preceding the second Monday in August.*

Determination of levy subject to exceptions.

"The number of mills which should be levied on all the property in such joint district for each tax-supported fund of the high school budget shall be determined in accordance with the general laws pertaining to tax levies for high schools, provided that the following exceptions to general financing procedures shall be made:

Separate foundation programs—procedure for allocation of revenue.

"(a) In the general fund budget and solely for the purpose of determining the amounts of county equalization aid to be allocated to the joint district for its high school foundation program, the total high school foundation program amount of the joint district shall be considered as consisting of as many separate foundation programs as there are counties in which any portion of the joint district is situated. The amount of each such separate foundation program shall bear to the total amount of the foundation program the same relationship that the number of ANB pupils in the joint district residing in each

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such county bears to the total ANB of the high school of the joint district. The amount of county equalization aid to be allocated to such separate foundation program shall be determined in accordance with the provisions of section 75-3618. Following the determination of the amount of county equalization aid from each county in which any portion of the joint district is situated, the separate foundation programs shall be combined into the total high school foundation program of the joint district, and the remaining requirements of such total foundation program and general fund budget shall be financed in accordance with the general laws pertaining to budgets and tax levies for high schools.

Apportionment of transportation reimbursement.

"(b) In the transportation fund budget and solely for the purpose of apportioning among the counties wherein any portion of the joint district is situated the amount of county reimbursement for high school transportation to be allocated to the joint district, the obligation for the total amount of such county reimbursement shall be distributed among such counties in the same proportion as the ANB of the high school of the joint district is distributed by residence in each such county.

Apportionment of revenue for high school retirement fund.

"(c) In the retirement fund budget and solely for the purpose of apportioning among the counties wherein any portion of the joint district is situated the obligation for the amount of county revenue for high school retirement fund purposes to be raised for the high school of the joint district, the total amount required to be raised for the high school retirement fund of the joint district shall be distributed among such counties in the same proportion as the ANB of the high school of the joint district is distributed by residence in each such county."

Amending clause.

Section 7. That section 75-4535, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Apportionment between counties of tax for joint district.

"75-4535. (1263.26) **Apportionment between counties of tax for joint districts.** The board of county commissioners *of each county in which any part of a joint school district is situated, shall fix the tax levy for each fund of the budget of any high school of the joint district at the number of mills for each such levy recommended by the county superintendent of schools in such joint state-*

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ment. Such board of county commissioners shall, at the time of fixing the county tax levy for high school transportation and the county tax levy for high school retirement fund purposes, for all the high schools within the county, include in the amounts to be raised by county levies such amounts as are required for the high school budget of the joint district, as recommended by the county superintendent of schools."

Repealing clause.

Section 8. That section 75-4536 be, and the same is hereby repealed.

Amending clause.

Section 9. That section 75-4602 be, and the same is hereby amended to read as follows:

Commission may divide county into high school districts.

"75-4602. **Commission may divide county into high school districts.** In all counties having a high school, or high schools, a commission consisting of the county commissioners and the county superintendent of schools shall at the request of any high school board of trustees in the county, divide the entire county into and establish one (1) or more high school districts for the purpose of this act, after hearing; provided, that each high school district so formed must have one (1) or more operating, accredited high schools within its boundaries; provided, further, that both parts of a joint district maintaining a high school may be considered as maintaining an operating high school, and as such each part of the joint district may, together with one (1) or more adjacent common school districts whose pupils attend the high school in the joint district, be set aside as a high school district. Provided, that, such resulting high school district in the county where the joint district high school is not located, shall be responsible for its share of the joint district high school budgets as is arrived at by following the procedure outlined in section *6 of this act,* and shall also be considered as a single high school district with the high school district of the joint district, wherein the high school is located for purposes of bonding as provided in sections 75-4601-4605, Revised Codes of Montana, 1947, as amended by chapter 188, laws of 1951, and also for purposes of selecting additional trustees as provided for in section 75-4601, Revised Codes of Montana, 1947, as amended by chapter 188, laws of 1951. That the commission shall fix the time, date and place, and at such time, date and place hold a public hearing of the requested division of

Public hearing.

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the county into high school districts, at which hearing any interested person may appear and be heard concerning the requested division. Written notice of such hearing shall be mailed by the county superintendent of schools to the chairman of each and every board of trustees of each and every school district in the county, and the chairman of the board of trustees of the county high school, stating the time, date and place of such public hearing, and shall be mailed not less than two (2) weeks preceding the date fixed for such hearing. The certificate of the county superintendent of schools filed with the commission reciting that said notices were mailed shall be conclusive.

Notice.

"The boundaries established by said commission shall be subject to the approval of the superintendent of public instruction.

Boundaries subject to approval.

"If any high school district shall cease to have within its borders an operating, accredited high school, then it shall be the duty of the county superintendent of schools to consolidate and annex the common school districts comprising said high school district to one or more operating high school districts within a period of six (6) months after one (1) year of being declared non-operating or non-accredited; provided, that before said county superintendent of schools may declare such a consolidation and annexation, he shall give the board of trustees of each of the common school districts within said high school district proposed to be consolidated and annexed twenty (20) days' notice of his intention so to do.

Consolidation where high school district ceases to have accredited high school.

"In creating such districts the commission shall give primary consideration to the factor of convenience of the patrons of the several schools. Common school districts may be grouped for the purpose of this act and when practicable high school districts shall be made up of contiguous and adjacent common school districts but the commission must take into consideration the existence or non-existence of obstacles of travel, such as mountains and rivers and existence or non-existence of highways and distances to high school. No common school districts shall be divided for the purpose of this act but must be made a part of a high school district in its entirety, unless such division is approved and authorized by the voters of the common school district involved, at a special election held

Consideration of convenience.

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for that purpose and such division shall be on the basis of equal area, or as near thereto as practicable in relation to the geographical features of such district, provided that the entire portion of a joint school district within the county shall be included within a high school district, provided further that in the event twenty per cent (20%) of the voters of a common school district be dissatisfied with the proposed action of said commission in dividing into and establishing high school districts, or in the proposed action of the county superintendent in consolidating and annexing a common school district theretofore constituting a part of a high school district to an existing high school district, and shall within thirty (30) days after the giving of the notice heretofore required, file their written protest with said county superintendent, then said common school district or districts shall be by said county superintendent, or by said commission as the case may be, directed to hold a special election for the purpose of determining which high school district said district shall be annexed to or into which high school district said district shall be divided as hereinbefore provided, and the said superintendent or commission, as the case may be, shall be governed by the result of said election.''

Written protest.

Special election.

Section 10. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 11. This act shall be in full force and effect from and after the date of its passage and approval.

Effective immediately.

Approved March 3, 1961.

CHAPTER 152

An Act to Amend Section 11-616, Revised Codes of Montana, 1947, Relating to Vacation of Recorded Plats to Provide That Any Plat Prepared and Recorded as Provided by Section 11-2801, Revised Codes of Montana, 1947, May be Vacated Either in Whole or in Part, and Upon Such Vacation the Title to the Streets and Alleys of Such Vacated Portions, to the Center Thereof, Shall Revert to the Owners of the Property Adjacent to Such Vacated Portions; Provided That if Pub-

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lic Utility Facilities Are Located in Such Vacated Streets or Alleys, the Owner Thereof Shall Have an Easement for Such Public Utility Facilities.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-616, Revised Codes of Montana, 1947, relating to vacation of recorded plats, is amended to read as follows:

Vacation of recorded plat.

"11-616. **Vacation of recorded plat.** Any plat prepared and recorded as herein provided may be vacated, either in whole or in part, as provided by section 11-2803 *and 11-2801, Revised Codes of Montana, 1947,* and upon such vacation the title to the streets and alleys of such vacated portions, to the center thereof, shall revert to the owners of the property adjacent to such vacated portions, *provided that if any pole line, pipe line or other public utility facilities are located in any such vacated street or alley at the time of the reversion of the title thereto, the owner of such public utility facilities shall have an easement over such land to continue the operation and maintenance of such public utility facilities.*"

Effect.

Easement for public utility facilities.

Approved March 3, 1961.

CHAPTER 153

An Act to Regulate the Giving or Furnishing of Trading Stamps or Other Similar Devices, Requiring a State License for Engaging in Such Business; Providing Certain Exemptions; Providing a Penalty for the Violation Thereof, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

License required for furnishing trading stamps.

Section 1. **License required for furnishing trading stamps for sale of merchandise.** Every person who advertises the giving of trading stamps or who gives trading stamps, with the sale of merchandise, shall first obtain a separate license from the state board of equalization for each store or place of business in the state, owned or conducted by such person from which such giving of trading stamps shall take place. "Trading stamp" means any stamp or similar device issued in connection with the retail sale of merchandise or service, as a cash discount or

"Trading stamp" defined.

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for any other marketing purpose, which entitles the rightful holder, on its due presentation for redemption, to receive merchandise, service or cash *and shall include any coupon, certificate, ticket, card or similar device caused to be prepared by the retailer using the same for distribution by him to his customers and redemption by such retailer. For the purpose of this act a retailer shall mean any individual, partnership, corporation, association or any other organization, who sells directly to the consumer and shall include any manufacturer, processor, distributor, jobber, wholesaler, retailer or any combination thereof engaged in selling directly to the consumer.* "Person" means any individual, partnership, corporation, association, or other organization.

Retailer defined.

"Person" defined.

Section 2. "Trading stamp" does not include any redeemable device used by the manufacturer or packer of an article, in advertising or selling it, or any redeemable device issued and redeemed by a newspaper, magazine, or other publication.

Exception.

Section 3. The legislature finds and declares that the devices described in section 2 are classes of articles that are not employed in connection with practices which must be regulated as provided in this chapter to protect the people of Montana.

Section 4. **Issuance of license and fee for same.** In order to obtain such license, the person applying therefor shall pay to the State of Montana the sum of *one hundred* dollars, plus *two per centum (2%)* of the gross receipts from the sale of merchandise from such store or place of business, during the calendar year preceding the year in which the application is made, and upon such payment being made, the state board of equalization shall issue to such person so paying, a license to, for the period of one year, give or furnish or include in or with sales of goods, wares, or merchandise, trading stamps, or other similar devices, as described in section 1. Licenses shall be nontransferable.

Fee for one-year nontransferrable license.

Section 5. **Disposal of license monies.** All monies collected for such licenses shall be deposited with the state treasurer for the credit of the state general fund.

Monies to be deposited in general fund.

Section 6. **Forms to be prescribed by state board of equalization.** The form of licenses to be issued under

Forms.

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this act shall be prescribed by the state board of equalization. Said board shall also promulgate the forms to be used in applying for such licenses and may require the applicant for such license to state in his application such facts as the board may deem necessary to enable it to pass upon such application, including the name and address of the applicant and the premises where said trading stamps are to be furnished or sold and such other information as the board may require.

Time for filing application.

Section 7. **Time for filing application; renewals.** The application for license required by this chapter shall be filed with the state board of equalization on or before January 1st following the effective date of this chapter and the application for a renewal of such license shall be filed annually thereafter on or before January 1st each year.

Renewal.

Penalty for violation— enforcement.

Section 8. **Penalty for violation — Enforcement.** Any person referred to in section one of this act who shall fail to pay the license tax herein provided for, or any part thereof, when due, shall be liable for three (3) times the amount of the unpaid or delinquent tax in a civil action instituted for that purpose in a court of competent jurisdiction, in the name of the State of Montana, and in such suit, upon application of the state, an injunction may be issued without requiring any bond, restraining the defendant from continuing to furnish trading stamps.

Effective June 30, 1962.

Section 9. **Effective date.** This act shall take effect and be in force from and after June 30, 1962.

Approved March 2, 1961.

CHAPTER 154

An Act to Authorize the State Board of Equalization to Acquire Additional Information Reports on Payments to Nonresidents Not Subject to State Income Tax Withholding and Authorizing the Board to Adopt Rules and Regulations Requiring the Filing of Such Reports; to Provide That the Board May Order Additional Withholdings on Certain Other Payments Upon Finding Such Action Necessary to Insure Collection of Montana

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State Income Taxes Upon Income of Nonresidents; to Provide for the Method of Collection and Payment of Amounts Withheld; to Provide for and Define the Duties of Withholding Agents Under the Act and Penalties for Failure of Such Agents to Withhold or Pay; and to Provide Additional Powers and Duties of the State Board of Equalization Under This Act, by Amending Sections 84-4903.2, 84-4903.5, and 84-4903.7, Revised Codes of Montana, 1947, as Enacted by Sections 2, 5 and 7 of Chapter 208, Session Laws of 1959; and Providing a Saving Clause, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4903.2, Revised Codes of Montana, 1947, is amended to read as follows:

Requiring withholding of income tax from payment made to non-resident.

"84-4903.2. **Deducting and withholding from payments to nonresidents — Transmittal to state board of equalization** — *Additional reports and information — Rules and regulations — Order for withholding payments.* Every person, firm, corporation, association, partnership, or fiduciary doing business in or having income in the State of Montana, including the State of Montana, its agencies, and instrumentalities, counties, cities, towns, school districts, and municipal corporations of every kind, which knowingly makes payments of any kind to any nonresident of the State of Montana for services performed within the State of Montana other than those described in sections 84-4942 and 84-4943, Revised Codes of Montana, 1947, or for casual sales of property, either real or personal, located within the State of Montana, or any prizes or winnings payable from or within the State of Montana, or hiring or having a contract with any nonresident of a temporary nature to be carried out within the State of Montana, shall deduct from such payment or payments an amount to be set by the state board of equalization, not to exceed three per cent (3%) of such payment, which shall be transmitted by him to the state board of equalization as partial payment of such nonresident's income tax.

Board of equalization may regulate.

"Upon finding that reports and information, in addition to that now required by law or regulation, should be filed in order to insure the collection of Montana state income tax on payment to nonresidents for leases, rentals

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or royalties derived from property located within the State of Montana, the board of equalization may adopt rules and regulations requiring the filing of such reports and information.

Board may order withholding of amount equal to tax liability of non-resident.

"If upon notice to a nonresident taxpayer and hearing the board finds that withholding should be made on payments to the taxpayer for leases, rentals or royalties derived from property located within the State of Montana in order to insure the collection of Montana state income tax, it may order withholding on such payments in an amount equal to the tax liability of the nonresident taxpayer. Such order shall be binding upon all withholding agents as hereinafter described who shall receive a copy thereof, by mail or otherwise, until such agent shall receive a copy of an order of the board terminating such withholdings as to the nonresident taxpayer."

Amending clause.

Section 2. Section 84-4903.5, Revised Codes of Montana, 1947, is amended to read as follows:

Withholding agent shall remit quarterly payments.

"84-4903.5. **Quarterly payment by withholding agent — Exception.** Withholding agents required to deduct and withhold tax payments under the provisions of section 2 (84-4903.2, *Revised Codes of Montana, 1947)* shall remit such payments quarterly to the state board of equalization for each quarterly period on or before the last day of the month following the close of such quarterly period.

Exception— quarterly amount less than $10.00.

"Provided, however, that when the aggregate total amount of the tax withheld under the provisions of section 2 (84-4903.2, *Revised Codes of Montana, 1947)* shall amount to less than ten dollars ($10.00) in each quarterly period of any year, such withholding agent shall not be required to file the quarterly returns or to make the quarterly payments last hereinabove provided for, but in lieu thereof such withholding agent shall, on or before February fifteenth of the year next succeeding that in which such payments were withheld, file an annual return in such form as shall be determined by the board, and shall pay therewith the amount required by this act to be deducted and withheld by such withholding agent from all payments paid during the preceding calendar year."

Amending clause.

Section 3. Section 84-4903.7, Revised Codes of Montana, 1947, is amended to read as follows:

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"84-4903.7. **Failure to withhold or pay — Penalties.** If any withholding agent knowingly fails to withhold or pay to the state board of equalization any sums required by this act, *or any order made pursuant to this act,* to be withheld and paid, the same additions to the amount of such tax shall be imposed and added as those specified in section 84-4924, Revised Codes of Montana, 1947, with respect to failure to make a return of income or to pay any income tax; and any individual, corporation or partnership, or any officer or employee thereof, who, with intent to evade any tax or any requirement of this act, or who, with like intent, files or supplies any false or fraudulent statement or information, shall be liable to the same penalties as those imposed by section 84-4924, Revised Codes of Montana, 1947, with respect to filing or supplying any false or fraudulent statement or information with respect to income taxes." Penalty for violation.

Section 4. If any portion, section, subsection, paragraph, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the remainder of the act. Severability clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 4, 1961.

CHAPTER 155

An Act to Amend Section 84-1501, Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 232, Laws of Montana, 1957, and Section 1 of Chapter 264, Laws of Montana, 1959, Relating to Corporation License Tax and Organizations Exempt Therefrom by Deleting the Exemption Applicable to Mutual Savings Banks Not Having Capital Stock Representing Shares, to Domestic Building and Loan Associations or Cooperative Banks, to Labor, Agricultural or Horticultural Cooperatives Organized and Operating on a Cooperative Basis for Marketing Products and Purchasing Supplies, to Business Done With the United States, or State of Montana or its Political Subdivisions; Providing an Effective Date for This Act; and Repealing All Acts and Parts of Acts in Conflict Therewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-1501, Revised Codes of Montana, 1947, as amended by section 1 of chapter 232, laws of Montana, 1957, and section 1, chapter 264, laws of Montana, 1959, be, and the same is hereby amended to read and provide as follows:

Corporation license tax based on net income within state.

"84-1501. (2296) **Corporation license tax — Organizations exempt therefrom.** The term corporation includes associations, joint stock companies, common law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided, organized and existing under the laws of the State of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said State of Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the State of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the State of Montana, shall annually pay for the exclusive use and benefit of the State of Montana a license fee for carrying on its business in the State of Montana of such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the State of Montana as hereinafter set forth.

Percentage of net income— subject to $10.00 minimum tax.

"The percentage of net income to be paid under this section shall be five per centum (5%) of all net income for the taxable period, provided however, that as to all taxable periods ending on or after December 31, 1960, whether on a calendar or fiscal year basis, the percentage of net income to be paid under this act shall be four and one-half per centum (4½%). Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than ten dollars ($10).

Exempt organizations designated.

"There shall not be taxed under this title any income received by any—

"*(a).* Labor, agricultural or horticultural organization;

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"*(b)*. Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

"*(c)*. Cemetery company owned and operated exclusively for the benefit of its members;

"*(d)*. Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

"*(e)*. Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

"*(f)* Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare.

"*(g)*. Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

"*(h)*. Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

"*(i)*. Any cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;

"*(j)*. Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

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"*(k)*. In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Effective when.

Section 2. This act shall be in full force and effect as to all taxable periods ending after December 31, 1960, whether on a calendar or fiscal year basis.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1961.

CHAPTER 156

An Act to Amend Section 87-103 Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 140, Laws of Montana, 1957; Section 87-104 Revised Codes of Montana, 1947, as Amended by Section 3 of Chapter 140, Laws of Montana, 1957; Section 87-105 Revised Codes of Montana, 1947, as Amended by Section 2 of Chapter 140, Laws of Montana, 1957; Section 87-106 Revised Codes of Montana, 1947; as Amended by Section 1 of Chapter 171, Laws of Montana, 1957; Section 87-109 Revised Codes of Montana, 1947, as Amended by Section 3 of Chapter 171, Laws of Montana, 1957; Section 87-120 Revised Codes of Montana, 1947; Section 87-128 Revised Codes of Montana, 1947, as Amended by Section 7 of Chapter 171, Laws of Montana, 1957; Section 87-139 Revised Codes of Montana, 1947; Section 87-145 Revised Codes of Montana, 1947, as Amended by Section 7 of Chapter 164, Laws of Montana, 1955; Section 87-149 Revised Codes of Montana, 1947, as Amended by Section 12 of Chapter 171, Laws of Montana, 1957; Section 87-152 Revised Codes of Montana, 1947; and to Repeal Section 87-144 Revised Codes of Montana, 1947, All of Which Sections are a Part of and Pertain to the Unemployment Compensation Law; by Providing for New Bracketing in the Determination of High-quarter Wages in the Benefit Schedule and Eliminating Certain Steps of Such Schedule; by Increasing the Minimum Weekly Benefit Amounts; by

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Increasing the Maximum Weekly Benefit Amounts; by Providing for Variable and Increased Duration of Benefits; by Providing for a One Week Waiting Period; by Changing the Provisions Relative to Disqualification for Benefits; Increasing the Average Annual Contribution on Taxable Payrolls to 1.5 Per Centum; Providing for an Average Annual Contribution on Taxable Payrolls of 2 Per Centum Whenever Trust Fund Reserves Fall Below $20,000,000.00 and Until Reserves Exceed $26,000,000.00 and Providing Further for a Uniform Contribution of 2.7 Per Centum for All Taxable Employers if Reserves Are Still or Later Fall Below $20,000,000.00 After One Year; Reducing the Minimum Trust Fund Balance Below Which All Employer Tax Rates Will Automatically Become 2.7 Per Centum, and Reducing the Required Amount Necessary in the Trust Fund Before Employer Tax Rates Will Again be Based Upon Experience Rating; Allowing Abatement of Certain Charges to Employer Accounts by Reason of Benefits Paid; Correcting Ambiguous Wording; Revising the Period of Time to be Reported in the Annual Report of the Commission to the Governor Covering the Administration and Operation of the Unemployment Compensation Law and the Date Such Report Shall be Submitted; Requiring Commission Cooperation With the Secretary of Labor in Administering Acts of Congress to Pay Unemployment Compensation Benefits to Federal Employees, Veterans and Ex-Service Personnel of the Armed Forces of the United States; Empowering the Unemployment Compensation Commission in its Discretion to Perform All Acts and Execute Agreements Authorizing the Extension of Unemployment Compensation Benefits by Federal Law; Repealing Section 87-144 Which Provides for Payment of State Unemployment Compensation Benefits to Certain Ex-Servicemen of the Armed Forces of the United States; Revising the Period of Time Within Which the Commission May Issue a Certificate and Lien Against Any Employer for Failure to Pay Contributions Due; Amending the Penalties for False Statements or Wilful Nondisclosures; Revising the Definition of 'Total Unemployment'; Providing a Definition for 'Gross Misconduct'; Entering the Name of the Proper Federal Agency in Section 87-152; Providing a Savings Clause; Repealing All

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Acts and Parts of Acts in Conflict Herewith and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 87-103, Revised Codes of Montana, 1947, as last amended by section 1 of chapter 140, laws of Montana, 1957, be, and the same is hereby amended to read and provide as follows:

Time for payment of unemployment benefits.

"87-103. **Benefits.** (a) Payment of benefits. Thirty (30) months after the date when contributions first accrue under this act from the employer, benefits shall become payable from the fund to any individual, who thereafter is or becomes unemployed and eligible for the benefits as is herein prescribed; provided, however, that wages

Excepted wages.

earned for services performed as an employee representative as defined in the railroad unemployment insurance act (52 Stat. 1094), or for services performed for an employer, as defined in said act, shall not be included for the purposes of determining eligibility or weekly benefit amount under this act with respect to any benefit year commencing on or after July 1, 1939, nor shall any benefits with respect to unemployment occurring on and after July 1, 1939, be payable on the basis of such wages under any provisions of this act. All benefits shall be paid through public employment offices in the State of Montana, or other agencies designated by the commission, in accordance with such rules and regulations as the commission may prescribe.

Weekly benefit amount.

"(b) Weekly Benefit Amount. Except as provided in *sub*section (c), an insured worker's weekly benefit amount shall be the amount in column B of the benefit schedule of this subsection on the line on which in column A there appears his total wages paid for insured work in that quarter of his base period in which his wages were highest: (designated in the benefit schedule as "High-Quarter Wages").

Schedule.

BENEFIT SCHEDULE

"Weekly benefit amount figures from weighted schedule of high-quarter wage and qualifying wages computed as one and one-half times high-quarter wages and maximum potential benefits in benefit year.

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"High-Quarter Wages (Column A)	Weekly Benefit Amount (Column B)	Minimum Qualifying Wages (Column C)
$285.00-*314.99*	$ 15.00	$427.50
315.00-344.99	16.00	*472.50*
345.00-374.99	17.00	*517.50*
375.00-404.99	18.00	*562.50*
405.00-434.99	19.00	*607.50*
435.00-464.99	20.00	*652.50*
465.00-494.99	21.00	*697.50*
495.00-524.99	22.00	*742.50*
525.00-554.99	23.00	*787.50*
555.00-584.99	24.00	*832.50*
585.00-614.99	25.00	*877.50*
615.00-644.99	26.00	*922.50*
645.00-674.99	27.00	*967.50*
675.00-704.99	28.00	*1,012.50*
705.00-734.99	29.00	*1,057.50*
735.00-764.99	30.00	*1,102.50*
765.00-794.99	31.00	*1,147.50*
795.00-824.99	32.00	*1,192.50*
825.00-854.99	*33.00*	*1,237.50*
855.00 or more	*34.00*	*1,282.50*

Maximum total Benefits at *13* weeks (Column D)	*Maximum Total Benefits at 20 weeks (Column E)*	*Maximum Total Benefits at 26 weeks (Column F)*
$195.00	*$300.00*	*$390.00*
208.00	*320.00*	*416.00*
221.00	*340.00*	*442.00*
234.00	*360.00*	*468.00*
247.00	*380.00*	*494.00*
260.00	*400.00*	*520.00*
273.00	*420.00*	*546.00*
286.00	*440.00*	*572.00*
299.00	*460.00*	*598.00*
312.00	*480.00*	*624.00*
325.00	*500.00*	*650.00*
338.00	*520.00*	*676.00*
351.00	*540.00*	*702.00*
364.00	*560.00*	*728.00*
377.00	*580.00*	*754.00*
390.00	*600.00*	*780.00*

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403.00	*620.00*	*806.00*
416.00	*640.00*	*832.00*
429.00	*660.00*	*858.00*
442.00	*680.00*	*884.00*

Maximum and minimum.

"Such benefit shall not be more than *thirty-four* dollars *($34.00)* per week nor less than *fifteen* dollars *($15.00)* per week.

Qualifying wages.

"(c) Qualifying Wages. To qualify as an insured worker an individual must have been paid wages for insured work in his base period totaling not less than the amount in column C of the benefit schedule in subsection (b) on the line on which in column B there appears his weekly benefit amount.

Wage record.

"(d) Wage record. The commission shall maintain a record of the wages paid to an individual in accordance with wages earned by him for employment by employers during each quarter.

Accrued benefits at time of death— to whom paid.

"(e) Benefits. All accrued benefits due and payable at the time of death to any deceased claimant shall be paid to the surviving spouse, or if there be no surviving spouse, then to the surviving children, or if there be no surviving children, then to the next of kin, without the necessity of any recipient obtaining letters testamentary or of administration."

Amending clause.

Section 2. That section 87-104, Revised Codes of Montana, 1947, as last amended by section 3 of chapter 140, laws of Montana, 1957, be, and the same is hereby amended to read and provide as follows:

Duration of benefits— maximum total amount.

"87-104. **Duration of benefits.** The maximum total amount of benefits payable to any eligible individual during any benefit year shall *be:*

"(a) Thirteen (13) times his weekly benefit amount if he is qualified as an insured worker as defined in section 87-103 (c), and does not qualify under subsection (b) or (c) below.

"(b) Twenty (20) times his weekly benefit amount if in addition to meeting the requirements of section 87-103 (c), he has been paid wages of $100.00 or more for insured work in each of two (2) quarters in his base period other than the quarter in which his wages were highest.

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"(c) Twenty-six (26) times his weekly benefit amount if in addition to meeting the requirement of section 87-103 (c), he has been paid wages of $100.00 or more for insured work in each of three (3) quarters in his base period other than the quarter in which his wages were highest."

Amending clause.

Section 3. That section 87-105, Revised Codes of Montana, 1947, as last amended by section 2 of chapter 140, laws of Montana, 1957, be, and the same is hereby amended to read and provide as follows:

Benefit eligibility conditions precedent.

"87-105. **Benefit eligibility conditions.** An unemployed individual shall be eligible to receive benefits for any week of total unemployment within his benefit year; only if the commission find that —

"(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulation as the commission may prescribe, except that the commission may, by regulation, prescribe that such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act, provide for registration and reporting for work by mail or through other governmental agencies.

"(b) He has made a claim for benefits in accordance with the provisions of section 87-107 (a).

"(c) He is able to work and is available for work and is seeking work, provided, however, that no claimant shall be considered ineligible in any week of unemployment for failure to comply with the provisions of this subsection if such failure is due to an illness or disability which occurs after he has registered for work and no suitable work has been offered to such claimant after the beginning of such illness or disability.

Week of total unemployment defined.

"(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of one (1) week. However, if claimant's benefit year expires during a period of compensable unemployment, claimant will continue to receive weekly benefits, in a new benefit year, if otherwise eligible, without interruption to serve the waiting week for the new benefit year, but will thereafter be required to serve the waiting week before receiv-

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ing benefits during subsequent unemployment in the new benefit year. No week shall be counted as a week of total unemployment for the purposes of this subsection:

"(1) If benefits have been paid with respect thereto;

"(2) Unless the individual was eligible for benefits with respect thereto;

"(3) Unless it occurs within the benefit year of the claimant;

"(4) Unless it occurs after benefits first could become payable to any individual under this act."

Amending clause.

Section 4. That section 87-106, Revised Codes of Montana, 1947, as amended by section 1 of chapter 171, laws of Montana, 1957, be, and the same is hereby amended to read and provide as follows:

Disqualification for benefits.

"87-106. **Disqualification for benefits.** An individual shall be disqualified for benefits —

"(a) If he has left work without good cause *attributable to the employment* for a period of not less than one (1) or more than *five (5)* weeks *(in addition to and immediately following the waiting period),* as determined by the commission according to the circumstances in each case. No benefit payments or amounts paid *any* individual *after having left work without good cause attributable to the employment* shall ever be charged under section 87-109 against *any* employer (whose employment the individual left) on account of that particular employment.

"(b) If he has been discharged:

*"(1) F*or misconduct connected with his work, *or affecting his employment,* for a period of not less than one (1) nor more than *nine (9)* weeks *(in addition to and immediately following the waiting period),* as determined by the commission in each case according to the seriousness of the misconduct.

"(2) For gross misconduct connected with his work or committed on the employer's premises, as determined by the commisison, for a period of twelve (12) months.

"No benefit payments or amounts paid *any* individual *after having been discharged for misconduct* shall ever be charged under section 87-109 against *any* employer (from

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whose employment the individual was discharged for misconduct as above provided) on account of that particular employment.

"(c) If he failed, without good cause, either to apply for available and suitable work when so directed by the employment office or the commission or to accept suitable work offered to him which he is physically able and mentally qualified to perform, or to return to his customary self-employment (if any) when so directed by the commission. Such disqualification shall continue for the week in which such failure occurred and for not less than one (1) nor more than *five (5)* weeks *in addition to the waiting week* which immediately follow such week as determined by the commission according to the circumstances in each case.

"(1) In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and previous earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

"(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

"(A) If position offered is vacant due directly to a strike, lockout, or other labor dispute;

"(B) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

"(C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

"(d) For any week with respect to which the commission finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which

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he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the commission that —

"(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

"(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute;

"Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises; provided, further, that if the commission, upon investigation, shall find that such labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the state wherein the labor dispute occurs or of the United States pertaining to collective bargaining, hours, wages or other conditions of work, such labor dispute shall not render the workers ineligible for benefits.

"(e) For any week with respect to which he is receiving or has received payment in the form of —

"(1) Wages in lieu of notice or separation or termination allowance;

"(2) Compensation for disability under the workmen's compensation law *or the occupational disease law* of this or any *other* state or under a similar law of the United States;

"(3) Benefits under the railroad unemployment insurance act or any state unemployment compensation act or similar laws of any state or of the United States. This disqualification does not apply to any week with respect to which an individual is receiving or has received benefits under an unemployment compensation law of another state or of the United States, if such benefits are paid pursuant to section 87-129.

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"Receipt of any wages, compensation or benefits as set forth in subsections (1), (2), or (3) above, after payment of unemployment benefits, and with respect to the same week for which unemployment benefits were received, will thereupon require such individual to repay such unemployment benefits and the commission may collect such unemployment benefits in the same manner as provided for collection of benefits under section 87-145 (d).

"(f) During the school *year (within the autumn, winter and spring seasons of the year)* or *the* vacation periods within *such* school *year or during any prescribed school term* if claimant is a student regularly attending an established educational institution.

"(g) For any week wherein claimant leaves her most recent work to be married. Such disqualification shall *cancel all existing wage credits and shall* continue until such time as *subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105.*

"(h) Where retired and entitled to receive retirement compensation paid in whole or in part from funds furnished by an employing unit, such disqualification to be applied as follows: all wages earned by such individual in the employment from which he has been retired shall not be considered or included in determining his wage credits or weekly benefit amount under section 87-103 or 87-105, and no benefit payments or amounts paid *any* individual *after such retirement* shall ever be charged under section 87-109 against any employing unit from whose employment the individual is retired, on account of that particular employment, unless and until the commission shall determine (upon hearing, *if requested by employer, and* after at least ten (10) days' written notice *of such hearing* to said employer) that the individual was not retired by the employer acting in good faith. This disqualification does not extend to the receipt of benefits under the federal social security act, as amended.

"(i) For any week wherein claimant leaves her most recent *employment* during pregnancy, and due to such pregnancy, *and such disqualification shall continue through the period of pregnancy unless claimant presents evidence of her physical ability to work at such employment.* At any time after the seventh month of pregnancy

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a claimant, to establish eligibility, must present evidence of physical ability to work at such employment. Further, *at any time during the first two (2) months following childbirth, a claimant,* to establish eligibility, must present evidence of her physical ability to work at such employment. In *any* of the cases set forth hereinbefore, such evidence of eligibility must be in the form of a certificate of a duly licensed physician that such claimant is physically able to work at her most recent employment, *and such evidence must be presented as often as requested by the commission. No benefit payments or amounts paid any individual after having left work because of pregnancy or childbirth shall ever be charged under section 87-109 against the employer (whose employment the individual left because of pregnancy or because of childbirth) on account of that particular employment.*

"(j) *For any week wherein claimant leaves her most recent work to change her place of residence in order to remain with her husband or relative. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105.*"

Amending clause.

Section 5. That section 87-109, Revised Codes of Montana, 1947, as last amended by section 3 of chapter 171, laws of Montana, 1957, be, and the same is hereby amended to read and provide as follows:

Contributions by employer.

"87-109. **Contributions.** (a) Payment. (1) On and after January 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages, as defined in section 87-149 (c), paid for employment (as defined in this act) occurring during such calendar year.

Payment by employer to commission.

Such contributions shall become due and be paid by each employer to the commission for the fund in accordance with such regulations as the commission may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

"(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half (½) cent or more, in which case it shall be increased to one (1) cent.

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Rate of contribution.

"(b) Rate of contribution. (1) Each employer shall pay contributions equal to the following percentages of wages, as defined in section 87-149 (c) paid by him with respect to employment:

"(A) One and eight-tenths (1.8) per centum with respect to employment during the calendar year 1937;

"(B) Two and seven-tenths (2.7) per centum with respect to employment during the calendar years 1938, 1939, 1940, 1941, and for each calendar year thereafter, except as herein provided in subsection (c) of this section.

Experience rating—duty of of commission to classify.

"(c) Experience rating. The commission shall for the calendar year 1947, and for each calendar year thereafter, classify employers in accordance with their actual contribution and unemployment experience and shall determine for each employer the rate of contribution which shall apply to him throughout the calendar year in order to reflect said experience and classification.

"The commission shall apply such form of classification or experience rating system which is best calculated to rate individually and most equitably the employment for each employer and to encourage the stabilization of employment.

"In making such classification, the commission shall take account, each to an equal extent, of the following factors relating to the unemployment hazard shown by each employer on the basis of (1) average annual net percentage declines in taxable payrolls for the last three (3) years prior to computation date; (2) number of years the employer has paid contributions; and (3) chargebacks to the individual employer account upon the last employer basis. The computation date is hereby fixed as of the close of business on June 30th of the preceding calendar year.

Rates to yield 1.5 per centum of total payrolls.

"The rates for the *third calendar quarter of* calendar year *1961* and thereafter, except as hereinafter provided, shall be so fixed that they would, if applied to all employers and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately *one and five-tenths (1.5)* per centum of the total of all such payrolls.

"The commission shall determine the contribution rate

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Limitations on commission to determine rates.

aplicable to each employer for any calendar year subject to the following limitations:

"(1) Each employer's rate shall be two and seven-tenths (2.7) per centum unless and until there have been five (5) years prior to the computation date throughout which the employer has paid contributions at the rate of two and seven-tenths (2.7) per centum.

"(2) The classified contribution rates for the calendar year 1947, and thereafter, except as hereinafter provided, shall be: one (1.0) per centum, one and one-half (1.5) per centum, two (2.0) per centum, two and one-half (2.5) per centum, and two and seven-tenths (2.7) per centum. The classified contribution rates for the calendar year 1953, and thereafter, except as hereinafter provided, shall be: five-tenths (.5) of one per centum, seven-tenths (.7) of one per centum, nine-tenths (.9) of one per centum, one and one-tenth (1.1) per centum, one and three-tenths (1.3) per centum, one and five-tenths (1.5) per centum, one and seven-tenths (1.7) per centum, one and nine-tenths (1.9) per centum, two and one-tenth (2.1) per centum, two and three-tenths (2.3) per centum, two and five-tenths (2.5) per centum, and two and seven-tenths (2.7) per centum.

"(3) No employer shall be assigned a classified contribution rate higher than the second classified rate above the rate which was assigned to him for the last preceding calendar year except *for the year 1961 and further* as hereinafter provided.

"(4) No employer's rate shall be fixed below two and seven-tenths (2.7) per centum whose benefit payments charged as most recent employer have, in the last three (3) years preceding the computation date, exceeded the amount of his contributions for those years, provided that for the calendar year 1957 and thereafter, any employer may, for the purpose of avoiding the provisions of this subsection, have the option of making a voluntary contribution to the unemployment compensation fund to cancel the amount by which the benefit payments charged to him under section 87-109 (c) during the last three (3) completed fiscal years exceed his contributions for the same three (3) years. Such voluntary contribution shall be applied first to cancel the amount by which benefits

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exceed contributions in the earliest of the three (3) years preceding the computation date, any remaining to cancel the excess in the second earliest year preceding the computation date, and any further remaining to cancel the excess in the most recent year preceding the computation date. Whenever the benefit payments charged to an eligible employer in the last three (3) fiscal years exceed his contributions for the same period, the commission shall notify him of the amount of such excess and the rate which would be applicable to him for the ensuing calendar year, if he exercises the option. Such employer must exercise the option of making the voluntary contribution allowed by this section within thirty (30) days after receipt of such notice; otherwise his rate for the ensuing calendar year shall be fixed at two and seven-tenths (2.7) per centum.

Rates to yield 2 per centum—when.

"(5) Rates as fixed by the commission shall stand and be in effect unless and until the cash reserves in the unemployment compensation trust fund at any time in the future fall below *twenty million dollars ($20,000,000.00), then employer rates effective at the beginning of the next succeeding calendar quarter shall be so fixed that they would, if applied to all employers and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equalling approximately two (2) per centum of the total of all such payrolls, and shall continue at the two (2) per centum average rate until cash reserves in the unemployment compensation trust fund exceed twenty-six million dollars ($26,000,000.00) at which time all employer rates shall again be so fixed to bring an average return of one and five-tenths (1.5) per centum as in this section hereinabove provided; if after one (1) year from the effective date of such increase to an average rate of two (2) per centum, or at any time thereafter, but before reserves return to twenty-six million dollars ($26,000,000.00), reserves still remain or again fall below twenty million dollars ($20,000,000.00),* then the contribution rate of all employers subject to this act shall immediately return to a uniform rate of two and seven-tenths (2.7) per centum, and shall continue at the two and seven-tenths (2.7) per centum rate until cash reserves in the unemployment compensation trust fund exceed *twenty-six* million dollars *($26,000,000.00), at which time all employer rates shall again be so fixed to bring an average return of one and five-*

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tenths (1.5) per centum as in this section hereinabove provided.

"(6) The commission shall by regulation adopt such procedures as may be necessary for the substitution, merging or acquisition of an employer account by an employing unit, and the transfer of such employer account, rights, contributions, benefit experience and ratings to the successor employing unit or units.

"(7) The commission shall by regulation provide for the proper notification of employers of the classification and rate of contribution applicable to their accounts. Such notification shall be final for all purposes unless and until such employer files a written request with the commission for a redetermination or hearing thereon within thirty (30) days after receipt of such notice. The provisions of section 87-107 applicable to appeals under claims procedure shall apply with like purpose and effect, and be applicable to hearings and request for redeterminations of classifications and rates of contribution filed by employers hereunder.

"Annual taxable payroll" defined.

"(8) 'Annual taxable payroll' means the total of the four (4) quarters of taxable payrolls of an employer preceding the computation date as fixed herein.

Wages in excess of $3,000.00.

"(d) Wages in excess of three thousand dollars ($3,000.00). Commencing January 1, 1941, the provisions of this act requiring the payment of contributions by employers subject to this act shall apply only to wages paid up to and including three thousand dollars ($3,000.00) by an employer to an employee with respect to employment during any calendar year."

Amending clause.

Section 6. That section 87-120 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read and provide as follows:

Duties and powers of commission to administer.

"87-120. **Administration — Duties and powers of commission.** It shall be the duty of the commission to administer this act; and it shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication

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in the manner, not inconsistent with the provisions of this act, which the commission shall prescribe. The commission shall determine its own organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. Not later than the 1st day of *January* of each year, the commission shall submit to the governor a report covering the administration and operation of this act during the *fiscal* year *ending June 30 of the preceding year,* and shall make such recommendations for amendments to this act as the commission deem proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature, and make recommendations with respect thereto."

Annual report to governor.

Section 7. That section 87-128 of the Revised Codes of Montana, 1947, as amended by section 7, chapter 171, laws of Montana, 1957, be, and the same is hereby amended to read and provide as follows:

Amending clause.

"87-128. **State-federal cooperation.** In the administration of this act, the commission shall cooperate to the fullest extent consistent with the provisions of this act with the secretary of labor, pursuant to the provisions of the social security act, as amended; shall make such reports, in such form and containing such information as the secretary of labor may from time to time require, and shall comply with such provisions as the secretary of labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the secretary of labor governing the expenditures or such sums as may be allotted and paid to this state under title III of the social security act, as amended, for the purpose of assisting in the administration of this act. *The commission shall cooperate with the secretary of labor in the administration*

Commission to cooperate with federal government.

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of any act of congress establishing unemployment compensation benefits or similar benefits for federal employees and veterans or ex-service personnel of the armed forces of the United States, and shall do so in such manner as may be deemed advisable and expedient in order to carry out the purpose of this act. The commission is hereby authorized and empowered to perform any and all acts, including the execution of agreements and contracts which may be required under and pursuant to any act passed by the congress of the United States, authorizing the extension of unemployment compensation benefits by federal law if the commission in its discretion deems it advisable to perform such acts.

"Upon request therefor the commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act."

Amending clause.

Section 8. That section 87-139 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read and provide as follows:

Lien for payment—enforcement.

"87-139. **Lien for payment.** If any contributions payable by an employer under this act, or any portion thereof, is not paid within *twenty-five (25)* days after the same becomes due, the commission may issue a certificate under its official seal, setting forth the amount of contributions due and interest accrued, directed to the sheriff of any county of the state, commanding him to levy upon and sell the real and personal property of the employer owing the same, found within his county, for the payment of the amount thereof, with the added penalties, interest and costs of executing the same and to return such certificates to the commission and pay to the commission the money collected by virtue thereof by a time to be therein specified, not more than ninety (90) days from the date of the certificate. The said sheriff shall, within five (5) days after the receipt of the certificate, file with the clerk of the district court of his county a copy thereof and thereupon the said clerk of the district court shall enter in the judgment docket, in the column for judgment debtors, the name of the employer mentioned in the certificate, and in the appropriate columns the amount

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of contributions due and the penalties for which the certificate is issued and the date when such copy is filed and thereupon the amount of such certificate so docketed shall become a lien upon the title to and interest in real property or chattels real of the employer against whom it is filed in the same manner as a judgment docketed in the office of such clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the certificate, to be collected in the same manner."

Repealing clause.

Section 9. That section 87-144 of the Revised Codes of Montana, 1947, be, and the same is hereby repealed.

Amending clause.

Section 10. That section 87-145, Revised Codes of Montana, 1947, as amended by section 7 of chapter 164, laws of Montana, 1955, be, and the same is hereby amended to read and provide as follows:

Penalties for violations.

"87-145. **Penalties — Falsity or wilful nondisclosure — Violations by employer or agent — Violation of act or regulations — Wrongfully collecting benefits.** (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this act, or under an employment security law of any other state, or territory or the federal government either for himself or for any other person, shall:

*"(1) B*e punished by a fine of not less than *fifty dollars ($50.00)* nor more than five hundred dollars ($500.00) or by imprisonment for not *less than three (3) days nor more* than thirty (30) days in the county jail or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense, *and*

"(2) Be disqualified for benefits thereafter until:

"(A) He has repaid to the commission a sum equal to the amount so received by him; provided, however, he will not be required to repay any amount so obtained more than five (5) years prior to the date of the commission's determination that the claimant made such false state-

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ments, wilful nondisclosure or misrepresentation, as provided in this paragraph, and

"(B) Twelve (12) months have elapsed since the date of such determination by the commission.

"(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this act, or under the employment security law of any other state, or territory or the federal government or who wilfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than *fifty dollars ($50.00)* nor more than five hundred dollars ($500.00) or by imprisonment for not *less than three (3) days nor more* than *thirty (30)* days in the county jail or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

"(c) Any person who shall wilfully violate any provision of this act or any order, rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this act, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not less than *fifty dollars ($50.00)* nor more than five hundred dollars ($500.00) or by imprisonment for *not less than three (3) days nor more* than *thirty (30)* days in the county jail or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

"(d) Any person who, by reason of the nondisclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this act while any conditions for the

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receipt of benefits imposed by this act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the commission, either be liable to have such sum deducted from any future benefits payable to him under this act or shall be liable to repay to the commission for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in this act for the collection of past due contributions. Action for collection of overpaid benefits shall be brought within five (5) years after the date of such overpayment, otherwise to be barred as provided in section 93-2604."

Amending clause.

Section 11. That section 87-149 of the Revised Codes of Montana, 1947, as amended by section 12 of chapter 171, laws of Montana, 1957, be, and the same is hereby amended to read and provide as follows:

"87-149. **Definitions — Continued.** (a) Total unemployment:

"Totally unemployed."

"(1) An individual shall be deemed 'totally unemployed' in any week during which he performed no services and with respect to which no wages are payable to him.

Week of unemployment.

"(2) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the commission may by regulation otherwise prescribe.

"Wages."

"Services."

"(3) As used in this subsection the term 'wages' shall include only that part of remuneration for work which is in excess of fifteen dollars ($15.00) in any one week, and the term 'services' shall not include work for which remuneration equal to or less than fifteen dollars ($15.00) per week is payable, *or for one (1) day's work not exceeding eight (8) hours, whichever is greater.*

"Unemployment compensation administration fund."

"(b) 'Unemployment compensation administration fund,' means the unemployment compensation administration fund established by this act, from which administrative expenses under this act shall be paid.

"Wages" means all remuneration for personal services.

"(c) 'Wages,' means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. The reasonable cash value of remunera-

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tion payable in any medium other than cash, shall be estimated and determined in accordance with rules prescribed by the commission.

Wage records.

"Wage records kept by the commission for the purposes of this act prior to January 1, 1941, shall be kept on the basis of wages payable, and wage records kept by the commission for the purposes of this act after January 1, 1941, shall be kept on the basis of wages paid.

Wages not to include benefits.

"Provided, however, that the term 'wages' shall not include —

"(1) The amount of any payment made to, or on behalf of, an employee by an employer on account of:

"(A) Retirement, or

"(B) Sickness or accident disability, or

"(C) Medical and hospitalization expenses in connection with sickness or accident disability, or

"(D) Death.

"(E) Services performed for a fraternal benefit society, lodge, order, service club or association having a total annual payroll of less than five hundred dollars ($500.00) in any calendar year.

"(F) Remuneration paid by any county welfare office from *welfare assistance* funds for services performed at the direction and request of such county welfare office.

"Week."

"(d) 'Week,' means a period of seven (7) consecutive calendar days ending at midnight on Saturday.

"Weekly benefit amount."

"(e) 'Weekly benefit amount.' An individual's 'weekly benefit amount,' means the amount of benefits he would be entitled to receive for one (1) week of total unemployment.

"Gross misconduct."

"(f) 'Gross misconduct,' means a criminal act, other than a violation of a motor vehicle traffic law, for which an individual has been convicted in a criminal court or has admitted."

Amending clause.

Section 12. That section 87-152 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read and provide as follows:

Approval by secretary of labor.

"87-152. **Approval by** *secretary of labor.* If the *secretary of labor* shall fail to approve this act, the same shall immediately terminate and have no force and effect."

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Severability clause.

Section 13. If any clause, sentence, section, paragraph or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid or inoperative.

Repealing clause.

Section 14. All acts or parts of acts in conflict herewith are hereby repealed.

Effective when.

Section 15. Sections 1, 2, 3, 4 of this act shall be in full force and effect on and after April 1, 1961, and sections 1, 2, 3, and 4 shall apply to all benefit years beginning on and after April 1, 1961, and the insured status of all claimants who have a benefit year current on or after April 1, 1961, shall be redetermined and benefits shall be paid in accordance with this provision, provided that no insured worker shall have his benefits reduced or denied by redetermination resulting from the application of this provision; section 5 of this act shall be in full force and effect on and after July 1, 1961, sections 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of this act shall be in full force and effect on and after April 1, 1961.

Approved March 6, 1961.

CHAPTER 157

An Act to Amend Section 53-504, Revised Codes of Montana, 1947, Relating to the Power and Authority of the Governor to Formulate Rules and Regulations Governing the Use and Operation of State Owned Vehicles; Deleting Obsolete Vehicle Specifications Relating to Purchase of Motor Vehicles of United States Manufacture; Providing That New Motor Vehicles Shall be Purchased on Basis of Low Bid as Per Specifications; Repealing All Acts or Parts of Acts in Conflict Herewith; Providing Effective Date of Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-504, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

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Governor to regulate use of state owned vehicles.

"53-504. **Rules and regulations by governor — Authority.** The governor is hereby delegated the power and authority to formulate and enforce reasonable rules and regulations governing the use and operation of all motor vehicles used in the service of the State of Montana.

"The governor is specifically authorized:

"(a) To assign for either part, or full time, use to state officers, departments, bureaus, institutions and commissions one or more motor vehicles which may be required by the said state officer, departments, bureaus, institutions and commissions, after the necessity for such use has been shown by written application, setting forth the substantiating facts.

"(b) To approve the purchase of all new motor vehicles for such branches of the state government as required, provided, however, *that all vehicles, except cars purchased for the governor, including ambulances, suburbans, busses, station wagons, pickups and trucks, shall be purchased on the basis of standard specifications sufficiently limited in detail so as to fairly invite competitive bidding, and on the basis of the low bid, and providing that all such vehicles shall be of United States make.*

"(c) To revoke any assignment for use in any one department at any time, when the necessity for further use ceases to exist.

"(d) To provide every department head or administrative officer, where automotive vehicles are used on state business, with uniform rules and regulations. These rules shall require that in each such vehicle, there shall be kept an operating history record book, showing the mileage and expenditures for each trip.

"(e) To make reasonable rules and regulations relative to the use, storing and serving of all state-owned motor vehicles.

"(f) To require of all departments a monthly report on forms to be approved by the governor.

"(g) To authorize and permit state officers and employees to use their own motor vehicles on state business when deemed necessary, and to prescribe the regulations for such use."

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Section 2. That all acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. That this act shall be in full force and effect from and after its passage and approval. Effective immediately.

Approved March 6, 1961.

CHAPTER 158

An Act Providing That Student Fees That Have Been Pledged for the Liquidation of Obligations Incurred for the Construction of Facilities at Units of the University of Montana Are Not Tuition, and Limiting the Use to Which Such Student Fees May be Put.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. (1) Student fees that have been pledged for the liquidation of obligations incurred for the purpose of constructing facilities at the units of the university of Montana are not tuition. These student fees shall not be used for paying obligations incurred after this act takes effect, but shall be used exclusively for: Limitation on use of pledged student fees—University of Montana.

(a) The maintenance and repair of the existing facilities so financed.

(b) The fulfillment of existing obligations and accelerated retirement of bonds.

(2) Unpledged income from existing student housing facilities may be used for the financing of additional student housing facilities as provided by law.

Approved March 6, 1961.

CHAPTER 159

An Act Providing for the Giving of Reasonable Notice in Writing to Publisher and Reasonable Opportunity to Correct Libelous or Defamatory Matter as Prerequisite to Commencement of Action on Account of Any Libelous or Defamatory Publication in Any Newspaper, Magazine, Periodical, Radio or Television Station; Providing

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What Shall Constitute a Correction of Such Libelous or Defamatory Matter; Providing That a Correction, Published in Accordance With the Provisions of This Act Shall Constitute a Defense Against the Recovery of Any Damages Except Actual Damages, Provided the Publication Was Made Under Honest Mistake or Misapprehension; Providing That Such Correction Shall be Competent and Material in Mitigation of Actual Damages to the Extent Such Correction Does so Mitigate Such Damages; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Written notice to publisher of libelous or defamatory matter— precedent to suit— giving opportunity to make correction.

Section 1. **Notice in writing to publisher of libelous or defamatory matter — Opportunity to correct — Defense and mitigation of damages.** Before any civil action shall be commenced on account of any libelous or defamatory publication in any newspaper, magazine, periodical, radio or television station, the libeled person shall first give those alleged to be responsible or liable for the publication a reasonable opportunity to correct the libelous or defamatory matter. Such opportunity shall be given by notice in writing specifying the article and the statements therein which are claimed to be false and defamatory and a statement of what are claimed to be the true facts. The notice may also state the sources, if any, from which the true facts may be ascertained with definiteness and certainty. The first issue of a newspaper, magazine or periodical published after the expiration of one week from the receipt of such notice shall be within a reasonable time for correction. In the case of radio and television stations, a broadcast made at the same time of day as the broadcast complained of and of at least equal duration, which is made within seven (7) days following receipt of such notice shall be within a reasonable time for correction. To the extent that the true facts are, with reasonable diligence, ascertainable with definiteness and certainty, only a retraction shall constitute a correction; otherwise the publication of the libeled person's statement of the true facts, or so much thereof as shall not be libelous of another, scurrilous, or otherwise improper for publication, published as his statement, shall constitute a correction within the meaning of this section. If it shall appear upon trial that the publication was made under hon-

Retraction.

Correction.

Correction as defense— when.

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est mistake or misapprehension, then a correction, timely published, without comment, in a position and type as prominent as the alleged libel, or in a broadcast made at the same time of day as the broadcast complained of and of at least equal duration, shall constitute a defense against the recovery of any damages except actual damages, as well as being competent and material in mitigation of actual damages to the extent the correction published does so mitigate them.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1961.

CHAPTER 160

An Act to Amend Section 66, Chapter 286, Laws of the Thirty-sixth Legislative Assembly, 1959, Relating to the Tax on Net Premiums of Insurers; Increasing From Two Percent to Two and One-quarter Percent the Tax on Such Premiums for Each of the Calendar Years 1961 and 1962; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66, chapter 286, laws of the thirty-sixth legislative assembly, 1959, be, and the same is hereby amended to read as follows:

Duty of insurer to file annual report of premium income.

"Section 66. **Tax.** (1) Each authorized insurer, and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state, shall file with the commissioner, on or before March 1 each year, a report (except as to wet marine and transportation insurance taxed under subsection (3) below) in form as prescribed by the commissioner showing total direct premium income including policy, membership and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance whether

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designated as a premium or otherwise, received by it during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana (with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state), after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance 'premium' includes only the risk portion of the charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

Duty to pay tax—computation.

"(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums, the tax to be computed at the rate of two percent of such premiums; *provided that for each of the calendar years 1961 and 1962 the tax shall be computed at the rate of two and one-quarter percent of such premiums.*

Deduction allowed.

"Provided, that where any insurer has not less than fifty percent of its paid-in capital stock invested in Montana securities, the insurer shall be allowed to deduct whatever tax it may have already paid to the State of Montana and its political subdivisions, during the same calendar year as to which premium tax is being paid, from the amount otherwise due under this section. For the purpose of this provision 'paid-in capital stock' as to a mutual or reciprocal insurer shall be deemed to be an amount equal to ten percent of the insurer's assets; and 'Montana securities' shall be deemed to include only general obligations of the State of Montana or of its political subdivisions, mortgage loans secured by a first lien upon real estate located in Montana, and real estate located in

"Paid-in capital stock" defined.

"Montana securities" defined.

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Montana owned by the insurer, all if otherwise lawful investments of the insurer under this code.

Annual report and tax—wet marine and transportation insurance.

"(3) (a) On or before March 1 of each year each insurer shall file with the commissioner, on forms as prescribed and furnished or accepted by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in section 78, written in this state during the calendar year next preceding, and shall at the same time pay to the commisisoner a tax of three-quarters of one percent of such gross underwriting profit.

Computation.

"(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i. e. gross premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insurance contracts the net losses paid (i. e. gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (3) the amounts refunded, credited or paid as participation dividends or savings by such insurers to the holders of such contracts.

Portion of tax based on fire insurance shall be separately stated.

"(4) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

Effect of payment of tax.

"(5) With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state and taxes payable under section 82-1231, Revised Codes of Montana, 1947, (tax for support of state fire marshal activities), and demands for state, county, city, district, municipal, and school

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taxes, licenses, fees, and excises made because of operations prior to January 1, 1957.

State is exclusive taxing authority.

"(6) The State of Montana hereby preempts the field of imposing excise, privilege, franchise, income, license, and similar taxes, licenses, and fees upon insurers and their general agents and agents as such, and on the intangible property of insurers or such agents; and no county, city, municipality, district, school district, or other political subdivision or agency in Montana shall levy upon insurers, or upon their general agents and agents as such, any such tax, license, or fee additional to such as are levied by the legislative assembly of Montana in this code.

Penalty.

"(7) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

Effective when.

"(8) The provisions of this section shall apply to taxable years beginning after December 31, 1960."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1961.

CHAPTER 161

An Act to Amend Section 31-149, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 126, Laws of 1957, Relating to Period of Suspension and Revocation; Deleting Provision Which Makes an Exception to Suspension Under Section 32-1202, Revised Codes of Montana, 1947; Excepting Sections 31-148, 53-424 and 53-430, Revised Codes of Montana, 1947, From the Provisions of This Section; Establishing Periods of Suspension and Revocation for the Offense of Driving While Under the Influence of Intoxicating Liquor or Drugs, or Combination Thereof; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-149, Revised Codes of Montana, 1947, as amended by section 1, chapter 126, laws of 1957, be, and the same is hereby amended to read as follows:

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"31-149. **Period of suspension or revocation.** (a) The board shall not suspend *or revoke* a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one (1) year, except as permitted under sections *31-148,* 31-155, *53-424 and 53-430, Revised Codes of Montana, 1947.*

Period of suspension or revocation.

"(b) Any person whose license or privilege to drive a motor vehicle on the public highways has been *suspended or* revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that *after the expiration of the period of such revocation or suspension,* such person may make application for a new license as provided by law, but the board shall not then issue a new license unless and until it is satisfied after investigation of character, habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. *Provided, however, when any person is convicted or forfeits bail or collateral not vacated for the offense of operating or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or narcotic drug or combination thereof, the board shall, upon receiving a report of such conviction or forfeiture of bail or collateral not vacated, suspend or revoke the license or driving privilege of such person for a period of (60) days. Upon receiving a report of a conviction or forfeiture of bail or collateral for a subsequent such offense, within five (5) years thereof, the board shall suspend or revoke the license or driving privilege of such person for a period of one (1) year."*

New application.

Duty of board to act on notice of conviction or forfeiture of bail.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 6, 1961.

CHAPTER 162

An Act Amending Section 92-701, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, and Amending Section 92-702, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, and Amending Section 92-

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703, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, and Amending Section 92-704, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, and Amending Section 92-709, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of Montana, 1957, All Relating to Increases in Workmen's Compensation and Benefits for Temporary Total, Permanent Total, or Partial Disabilities, Injury Causing Death, and Specified Injuries; and Amending Section 92-418, Revised Codes of Montana, 1947, Relating to the Definition of 'Injury' or 'Injured'; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-701, Revised Codes of Montana, 1947, as last amended by chapter 234, laws of Montana, 1957, be and the same is hereby amended to read as follows:

Compensation—temporary total disability.

"92-701. (2912) **Compensation for injury producing temporary total disability.** Where the injured employee has no wife, child, father, mother, brother, or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *twenty-nine dollars ($29.00)* per week; where the injured employee has a wife, or child, or father or mother, or brother or sister residing within the United States, who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-two dollars ($32.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-six dollars ($36.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum

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(62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty dollars ($40.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of his injury, subject to a maximum compensation of *forty-five dollars ($45.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing in the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66⅔%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty dollars ($50.00)* per week, and subject in all cases to a minimum compensation of twenty-five and 50/100 dollars ($25.50) per week, and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding three hundred (300) weeks from the date of injury."

Amending clause.

Section 2. That section 92-702, Revised Codes of Montana, 1947, as last amended by chapter 234, laws of Montana, 1957, be and the same is hereby amended to read as follows:

Compensation—total permanent disability.

"92-702. (2913) **Compensation for injury producing total disability permanent in character.** Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *twenty-nine dollars ($29.00)* per week; where the injured employee has a wife, or child, or father, or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-two dollars ($32.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters, residing within the United States

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who would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-six dollars ($36.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty dollars ($40.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-five dollars ($45.00)* per week; where the injured employee has a wife and four (4) children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66⅔%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty dollars ($50.00)* per week; and subject in all cases to a minimum compensation of twenty-five and 50/100 dollars ($25.50) per week; and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding five hundred (500) weeks from the date of injury."

Amending clause.

Section 3. That section 92-703, Revised Codes of Montana, 1947, as last amended by chapter 234, laws of Montana, 1957, be and the same is hereby amended to read as follows:

Compensation—partial disability.

"92-703. (2914) **For partial disability.** Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *twenty-nine dollars ($29.00)* per week; where the injured employee has a wife, or child, or father, or mother, or brother or sister resid-

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ing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *thirty-two dollars ($32.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *thirty-six dollars ($36.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *forty dollars ($40.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *forty-five dollars ($45.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66⅔%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *fifty dollars ($50.00)* per week; not exceeding however, the maximum compensation allowed in cases of total disability, and not exceeding in amount or duration the total compensation provided in the act for the total loss of the member causing such partial disability. Such compensation shall be paid during the period of disability, not exceeding however, five hundred (500)

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weeks in cases of permanent partial disability, and fifty (50) weeks in cases of temporary partial disability, subject to change when the number of dependents increases by birth, or decreases, provided, however, that compensation for partial disability resulting from the loss of or injury to any member shall not be payable for a greater number of weeks than is specified in section 92-709 for the loss of such member."

Amending clause.

Section 4. That section 92-704; Revised Codes of Montana, 1947, as last amended by chapter 234, laws of Montana, 1957, be and the same is hereby amended to read as follows:

Compensation—death.

"92-704. (2915) **Compensation for injury causing death.** For beneficiaries residing within the United States: Where decedent leaves one (1) beneficiary, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *twenty-nine dollars ($29.00)* per week; where decedent leaves two (2) beneficiaries, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-two dollars ($32.00)* per week; where decedent leaves three (3) beneficiaries, sixty per centum (60%) of the wages received at the time of the injury subject to a maximum compensation of *thirty-six dollars ($36.00)* per week; where decedent leaves four (4) beneficiaries, sixty-two and one-half per centum (62½%) of the wages received at the time of injury, subject to a maximum compensation of *forty dollars ($40.00)* per week; where decedent leaves five (5) beneficiaries, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-five dollars ($45.00)* per week; where decedent leaves six (6) or more beneficiaries, sixty-six and two-thirds per centum (66⅔%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty dollars ($50.00)* per week; and subject in all such cases to a minimum compensation of twenty-five and 50/100 dollars ($25.50) per week.

"For beneficiaries residing outside of the United States: Where decedent leaves one (1) beneficiary, forty per centum (40%) of the compensation which would be payable to such beneficiary, if residing within the United States; where decedent leaves two (2) beneficiaries, forty-

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five per centum (45%) of the compensation which would be payable to such beneficiaries, if residing within the United States; where decedent leaves three (3) beneficiaries, forty-seven and one-half per centum (47½%) of the compensation which would be payable to such beneficiaries, if residing within the United States; where decedent leaves four (4) or more beneficiaries, fifty per centum (50%) of the compensation which would be payable to such beneficiaries, if residing within the United States.

"If decedent leaves no beneficiaries, then compensation shall be payable as follows: To his major dependents, if any, residing in the United States at the date of the hapening of the injury; where decedent leaves one (1) major dependent, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *twenty-nine dollars ($29.00)* per week; where decedent leaves two (2) major dependents, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-two dollars ($32.00)* per week.

"If the decedent leaves no major dependents, compensation shall be payable to his minor dependents, if any, if residing within the United States at the time of the hapening of the injury, as follows: Where decedent leaves one (1) minor dependent, thirty per centum (30%) of the wages received at the time of the injury, subject to a maximum compensation of *twenty-nine dollars ($29.00) per week;* where decedent leaves two (2) minor dependents, thirty-five per centum (35%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-two dollars ($32.00) per week;* where decedent leaves three (3) or more minor dependents, forty per centum (40%) of the wages received at the time of the injury, subject to a maximum compensation of *forty dollars ($40.00)* per week.

"If the decedent leaves no major or minor dependents a lump sum in the amount of three thousand and no/100 dollars ($3,000.00) shall be payable to his surviving parent or parents.

"All such payments of compensation provided for in this section shall be subject to a maximum compensation of *fifty dollars ($50.00)* per week for a period not exceed-

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ing five hundred (500) weeks and subject to change when the number of beneficiaries or dependents increases by birth, or decreases, and provided, further, that compensation payable to major or minor dependents shall not exceed the amount of the dependency.''

Amending clause.

Section 5. That section 92-709, Revised Codes of Montana, 1947, as last amended by chapter 234, laws of Montana, 1957, be and the same is hereby amended to read as follows:

Compensation—specified injuries.

''92-709. (2920) **Compensation in case of specified injuries.** In case of the following specified injuries, the compensation in lieu of any other compensation provided by this act, shall be as follows: Where the injured employee has no wife, child, father, mother, brother, or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *twenty-nine dollars ($29.00)* per week; where the injured employee has a wife, or child, or father or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-two dollars ($32.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-six dollars ($36.00)* per week; where the injured employee has a wife and two (2) children or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the wages received at the time of injury, subject to a maximum compensation of *forty dollars ($40.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-five dollars*

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($45.00) per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66⅔%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty dollars ($50.00)* per week, subject to change when the number of beneficiaries or dependents increases by birth, or decreases, and subject in all cases to a minimum compensation of twenty-five and 50/100 dollars ($25.50) per week, and shall be paid for the following periods:

For loss of:

One arm at or near shoulder	280 weeks
One arm at the elbow	240 weeks
One arm between wrist and elbow	220 weeks
One hand	200 weeks
One thumb and the metacarpal bone thereof	75 weeks
One thumb at the proximal joint	37 weeks
One thumb at the second distal joint	25 weeks
One first finger and the metacarpal bone thereof	40 weeks
One first finger at the proximal joint	30 weeks
One first finger at the second joint	22 weeks
One first finger at the distal joint	15 weeks
One second finger and the metacarpal bone thereof	37 weeks
One second finger at the proximal joint	20 weeks
One second finger at the second joint	15 weeks
One second finger at the distal joint	8 weeks
One third finger and the metacarpal bone thereof	25 weeks
One third finger at the proximal joint	15 weeks
One third finger at the second joint	10 weeks
One third finger at the distal joint	5 weeks
One fourth finger and the metacarpal bone thereof	15 weeks
One fourth finger at the proximal joint	11 weeks
One fourth finger at the second joint	8 weeks
One fourth finger at the distal joint	6 weeks
One leg at or near the hip joint as to preclude the use of an artificial limb	300 weeks
One leg at or above the knee where stump remains sufficient to permit the use of an artificial limb	200 weeks

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Compensation—specified injuries—continued.

One leg between knee and ankle	190	weeks
One foot at the ankle	180	weeks
One great toe with the metatarsal bone thereof	37	weeks
One great toe at the proximal joint	18	weeks
One great toe at the second joint	12	weeks
One toe other than the great toe with the metatarsal bone thereof	16	weeks
One toe other than the great toe at the proximal joint	8	weeks
One toe other than the great toe at second or distal joint	5	weeks
One eye by enucleation	165	weeks
Total blindness of one eye	140	weeks
Total loss of hearing, one ear	40	weeks
Total loss of hearing, both ears	200	weeks

"Loss of vision: Where central visual acuity does not exceed 20/200 in the better eye with correcting lenses or the widest diameter of the visual field subtends an angle no greater than 20 degrees, the same as for loss of the eye.

"Total loss of use: Indemnity benefits for permanent total loss of use of a member shall be the same as for loss of the member.

"Partial loss or partial loss of use: Indemnity benefits for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

"In any case in which there shall be a loss, or loss of use, of more than one member as set forth in this section, not amounting to permanent total disability, the award of indemnity benefits shall be for the loss, or loss of use thereof, which awards shall run consecutively, provided, however, that the total award or compensation in no case shall exceed five hundred (500) weeks.

"Disfigurement: The board may award proper and equitable indemnity benefits for serious face, head, or neck disfigurement, not to exceed twenty-five hundred dollars ($2,500.00) in addition to any other indemnity benefits payable under this section.

"The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two (2) thereof, in one

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(1) accident, in the absence of conclusive proof to the contrary shall constitute total disability, permanent in character. Provided, however, that the percentage of permanent disability caused by any single accident or injury shall be so computed as to cover the permanent disability caused by that particular injury without reference to any previous physical ailment or defect or to any injury previously suffered or any permanent disability caused thereby; provided, that no payment under this section shall be in lieu of the separate benefit of medical and hospital services."

Amending clause.

Section 6. That section 92-418, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

"92-418. (2870) **Injury or injured defined.** 'Injury' or 'injured' *means a tangible happening of a traumatic nature from an unexpected cause, resulting in either external or internal physical harm, and such physical condition as a result therefrom and excluding disease not traceable to injury.*"

"Injury" and "injured" defined.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1961.

Section 8. This act shall be in full force and effect from and after the 1st day of July, 1961.

Approved March 6, 1961.

CHAPTER 163

An Act to Amend Section 75-4609, of the Revised Codes of Montana of 1947, as Amended by Chapter 147, Laws of 1959, Relating to a Special Levy Election in a High School District, and Providing the Election May be Called by the Board of Trustees of a High School District; and Containing a Repealing Clause and Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-4609 of the Revised Codes of Montana of 1947, as amended by chapter 147, laws of 1959, be, and the same is hereby amended to read as follows:

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Special tax levy for high school purposes—election.

"75-4609. **Special tax levy — Election.** Whenever the board of trustees of the local school district within which the high school is situated shall deem it necessary to raise money for high school purposes in addition to its revenues from county and state apportionments, a meeting of the board of trustees of the high school district shall be called and held to consider the calling of an election to vote upon the question of approving a special levy for high school purposes. If a majority of the board of trustees, *as provided in section 75-4601, Revised Codes of Montana, 1947, as amended by section 1, chapter 167, Session Laws of Montana, 1959,* of the high school district attending such meeting shall determine that the proposed expenditures are necessary for the purposes of, altering, repairing or enlarging any high school or high schools of said district or for proper maintenance and operation of the high schools of said district or for acquisition of land for high school purposes, said trustees of the high school district shall ascertain and determine the number of mills required to be raised by special levy, and shall call an election for the purpose of submitting the question of making such additional levy to the qualified electors who are taxpayers upon property within the high school district, and if approved by a majority vote of all the taxpayers voting at such election, the result of said election shall be certified to the board of county commissioners, and the levy approved by such majority vote shall be made upon all property within said high school district."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1961.

CHAPTER 164

An Act for the Submission to the Qualified Electors of the State of Montana an Amendment to Section 19 of Article VIII of the Constitution of the State of Montana Relating to the Election, Qualifications, Term of Office, Salary, and Duties of County Attorneys, to

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Provide That the Term of Office of County Attorneys Shall be Four (4) Years.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause—submission to electors.

Section 1. That section 19 of article VIII of the constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana, at the general election to be held in November of 1962.

Amending clause.

Section 2. That section 19 of article VIII of the constitution of the State of Montana, be and the same is hereby amended to read as follows:

County attorney—elected for 4-year term—qualifications.

"Section 19. There shall be elected at the general election in each county of the state one county attorney, whose qualifications shall be the same as are required for a judge of the district court, except that he must be over twenty-one years of age, but need not be twenty-five years of age, and whose term of office shall be *four years,* and until their successors are elected and qualified. He shall have a salary to be fixed by law, one-half of which shall be paid by the state, and the other half by the county for which he is elected, and he shall perform such duties as may be required by law."

Ballot form.

Section 3. This amendment shall be submitted to the qualified electors of the State of Montana by being placed upon an official ballot as provided by chapter 11 of title 23 of the Revised Codes of Montana, 1947, as amended, and there shall be printed on such ballot the title of this act and the following words:

"☐ For the above amendment
☐ Against the above amendment"

Approved March 6, 1961.

CHAPTER 165

An Act to Amend Section 82-1519 of the Revised Codes of Montana, 1947, Pertaining to the State Board of Hail Insurance by Changing the Provisions Pertaining to the Salary of the Chairman and Per Diem, Mileage

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and Compensation of the Personnel of the Department; Repealing All Acts or Parts of Acts in Conflict Herewith; and Containing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 82-1519, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

State board of hail insurance—compensation.

"82-1519. (363) It shall be the duty of all public officers to perform the duties relative to hail insurance under this act, without other compensation than that allowed by law. The chairman of the state board of hail insurance shall receive a salary *not in excess* of *five hundred fifty dollars ($550.00)* per month and all appointed officers *and employees* under this act shall be *allowed the per diem and mileage allowed state employees. The compensation of all appointed officers and employees of the board shall be fixed by the state board of hail insurance.*

Report to governor.

"The chairman of the state board of hail insurance shall each year submit a full financial report of the operations of the department to the governor of the state."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1961.

CHAPTER 166

An Act to Amend Section 10-622, Revised Codes of Montana, 1947, as Amended by Chapter 177, Laws of 1957, Relating to the Appointment, Removal and Salaries of Probation Officers for the Juvenile Departments of District Courts in the State of Montana; Providing for a Salary Increase; Repealing All Acts and Parts of Acts in Conflict Herewith; and Containing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 10-622, Revised Codes of Mon-

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tana, 1947, as amended by chapter 177 of the session laws of the State of Montana, 1957, be, and the same is hereby amended to read as follows:

Chief probation officer—appointment and compensation.

"10-622. **Probation officers — Appointments — Removal — Salaries.** In every judicial district of the State of Montana the judge thereof having jurisdiction of juvenile matters may appoint one discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall hold his office until removed by the court. Such officer shall receive for his services such sum as shall be specified by the court upon appointment, provided that the judge of the district court may employ him on a yearly salary not to exceed *five thousand four hundred dollars ($5,400.00)*, or on a per diem basis for the time actually and necessarily employed in performing the duties of the office. The salary of such officer shall be apportioned among and paid by each of said counties in which said officer shall be appointed to act, in proportion to the assessed valuation of such counties for the year then current, except that where such official is appointed for one county, his salary shall be paid by that county.

Deputies—appointment and compensation.

"The judge having jurisdiction of juvenile matters may also appoint such additional persons to serve as deputy probation officers as the judge deems necessary; their salaries to be fixed by the judge at the time of appointment, provided that such salaries shall not exceed ninety per cent (90%) of the salary of the chief probation officer."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1961.

CHAPTER 167

An Act to Amend Section 66-114 of the Revised Codes of Montana of 1947, Which Was Enacted as Section 2 of Chapter 190 of the Laws of 1953 and Was Amended

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by Section 2 of Chapter 68 of the Laws of 1957, Relating to the Maximum Rates of Compensation Which May be Paid by the State, Counties, Cities and School Districts to Architects for Services Rendered in Planning and Construction of Public Buildings, by Adding Gymnasiums to the Buildings Listed in Conventional Types of Buildings, and by Providing the Maximum Fees Designated Therein Shall Apply to Individual Buildings Within a Project and to Individual Contracts for the Same Building, and to Amend Section 66-115 of the Revised Codes of Montana of 1947, Which was Enacted as Section 3 of Chapter 190 of the Laws of 1953, Relating to Payment by the State, Counties, Cities, and School Districts to Architects for Extra Services and Providing When All Compensation Due Architects May be Distributed and Paid, by Adding Certain Clarifying Language and by Providing Architects Shall be Paid in Accordance With the Compensation Schedule for Work Requested by the Owner or Its Duly Authorized Agent and Within the Scope of His Authority to the Extent Authorized But Abandoned by the Owner in Whole or in Part; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing This Act Shall be in Full Force and Effect From and After Its Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-114 of the Revised Codes of Montana of 1947, which was enacted as section 2 of chapter 190 of the laws of 1953 and was amended by section 2 of chapter 68 of the laws of 1957, be, and the same is, hereby amended to read as follows:

Scale of compensation—architects on public buildings.

"66-114. **Scale of compensation for architects on public buildings.** No payment for professional services of any architect or architects, relating to the planning or construction of public buildings of the State of Montana, or any agency thereof, or of any county, city, or school district in the state, shall hereafter be made at any greater rate of compensation for such professional services than hereinafter set forth; and no contract for professional services of any architect or architects, relating to the planning or construction of any such public buildings, works or improvements, shall hereafter be entered into by any board, department or agency of the State of Montana, or

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Scale of compensation—architects on public buildings—continued.

of any county, city or school district in the state which shall provide for payment of any greater rate of compensation for such professional services than the following percentages of actual cost of construction of such buildings, works or improvements, to-wit: "'A' Rate—Specialized Types: Structures of individual design and detail requiring special skill and prolonged study such as banks, clinics, club buildings, hospitals, libraries, memorials, monuments, museums and residences:

	Fee	Construction Cost
	8.00% of first	$ 50,000
Plus	7.75% of next	50,000
Plus	7.50% of next	100,000
Plus	7.00% of next	300,000
Plus	6.00% of next	500,000
Plus	5.00% of all additional	

"'B' Rate — Conventional Types: Structures of conventional character such as apartments, administrative buildings, bus and railway depots, churches, *gymnasiums,* dormitories, fire stations, nurses' homes, office buildings, restaurants, schools, shopping centers, stores and shops and theatres:

	Fee	Construction Cost
	7.50% of first	$ 50,000
Plus	7.25% of next	50,000
Plus	7.00% of next	100,000
Plus	6.50% of next	300,000
Plus	5.50% of next	500,000
Plus	4.50% of all additional	

"'C' Rate — Utilitarian Types: Structures of simplest utilitarian character such as airport hangers, armories, field houses, garages, shop maintenance buildings, multiple housing projects, stadiums, warehouses:

	Fee	Construction Cost
	6.50% of first	$ 50,000
Plus	6.25% of next	50,000
Plus	6.00% of next	100,000
Plus	5.50% of next	300,000
Plus	4.50% of next	500,000
Plus	3.50% of all additional	

"All architectural plans and specifications for such

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public buildings of the State of Montana, or any agency thereof, or of any county, city, or school district of the state, shall bear the seal and signature of the architect responsible therefor."

Amending clause.

Section 2. That section 66-115 of the Revised Codes of Montana of 1947, which was enacted as section 3 of chapter 190 of the laws of 1953, be, and the same is, hereby amended to read as follows:

Payment for extra services.

"66-115. **Payment for extra services — Time schedule for payments.** Said rate of compensation shall constitute full payment for all services and functions whatsoever of the contracting architect or architects and his and their employees and subcontractors including, but not limited to, consultation, preliminary studies, sketches, and estimates of costs, preparation of working drawings and working plans and specifications, preparation of advertisement of bids, bid forms, certificates of estimates, and inspection and supervision of construction; provided, however, that if the architect is caused extra drafting or other expense due to changes ordered by the owner, or due to the delinquency or insolvency of the owner or contractor, or as a result of damage by fire, he shall be equitably paid for such expense and the services involved.

"Three per cent (3%) *of the cost of construction* shall be added to the maximum rate of compensation, as above set forth for alterations to existing buildings. All compensation payable under this act may be distributed and paid in accordance with the following schedule, to-wit:

20% upon completion of studies and preliminary drawings

55% upon completion of working drawings and specifications

25% during construction, based on contract payment; *provided, the architect shall be paid at said times at the applicable rate of compensation for any work which is requested by the owner or its duly authorized agent and within the scope of his authority to the extent authorized but abandoned by such owner in whole or in part.*"

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 4. This act shall be in full force and effect from and after its passage and approval. Effective immediately.

Approved March 6, 1961.

CHAPTER 168

An Act Relating to Agricultural Seeds; Amending Section 3-802, Revised Codes of Montana, 1947, to Provide for Prohibition of Certain Grass Mixtures and Permitting Others; Providing a Definition.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 3-802, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"3-802. (3594) **Labeling of agricultural seed.** The owner, vendor, or person in possession of each and every package, parcel, or lot of agricultural seeds, as defined in the preceding section, which contains one (1) pound, or more, of such agricultural seeds, whether in package or in bulk, shall before offering such seeds for sale affix thereto, in a conspicuous place on the exterior of the container of such agricultural seeds, a written or printed label in the English language in legible type or copy, such label containing a statement specifying: Labeling of agricultural seed for sale. Required statement.

"1. A lot number or other distinguishing mark; the commonly accepted name of the kind or kinds of such agricultural seed, together with the variety name, and if such is not known, the fact must be so stated by using the word 'unknown.'

"1a. Name of state, country or territory, in which such agricultural seed was grown.

"2. The approximate percentage of germination of such agricultural seed, together with the date of test of germination. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately; with the provision that any portion or all of the percentage of such hard seeds may be added to the percentage of germination, and stated as 'total live seed.'

"3. The approximate percentage, by weight, of pure

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seed; meaning the freedom of such agricultural seeds from inert matter and from other seeds.

"4. The approximate percentage, by weight, of sand, dirt, broken seeds, sticks, chaff, and other inert matter combined in such agricultural seeds.

"5. The approximate total percentage by weight of weed seeds.

"5a. The approximate percentage by weight of other crop seeds in such agricultural seeds.

"6. The name, and the approximate number, per pound of agricultural seed, of each kind or species of noxious weed seeds specified in Groups I, II and III, section 3-801, subparagraphs (1), (2) and (3) of paragraph 2 thereof, as follows:

"Group I, noxious weed seeds, the name or names of each of the noxious weed seeds present, and the number thereof, singly or collectively, per pound of agricultural seed, in numbers less than one (1) noxious weed seed in fifty (50) grams of agricultural seed. If such numbers of Group I noxious weed seeds exceed one (1) in fifty (50) grams of seed, such seed shall not be sold within the State of Montana.

"Group II, noxious weed seeds, the name or names of each of the noxious weed seeds present, and the number thereof, singly or collectively per pound of seed, in excess of one (1) noxious weed seed in fifty (50) grams of agricultural seed.

"Group III, noxious weed seeds, the name or names of each of the noxious weed seeds present, and the number thereof, singly or collectively, per pound of seed, in excess of one (1) noxious weed seed in ten (10) grams of agricultural seed.

"7. The full name and address of the seedsman, importer, dealer or agent or of other persons or person, firm or corporation selling, offering, or exposing the said agricultural seed for sale.

"8. Mixtures of agricultural seeds which contain two (2) or more kinds of such seeds in excess of five per cent (5%) by weight of each, when sold, offered, or exposed for sale as mixtures, shall have affixed thereto, in a con-

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spicuous place on the exterior of the container of such mixtures of seeds, a plainly written or printed tag or label in the English language, stating:

"(a) Name of mixture.

"(b) The name and approximate percentage by weight of each kind of agricultural seed present in such mixture in excess of five per cent (5%) by weight of the total mixture.

"(bb) Approximate percentage by weight of broken seeds and other inert matter in such mixture of agricultural seeds.

"(c) Approximate percentage by weight of weed seeds as defined in subdivision 2 of section 3-801.

"(cc) Approximate percentage by weight of other crop seed in such mixture of agricultural seeds.

"(d) The name and approximate number per pound of each kind of the seeds or bulblets of the noxious weeds listed in subdivision 2, of section 3-801, which are present, singly or collectively, in excess of nine (9) seeds or bulblets per pound.

"(e) Approximate percentage of germination of each kind of agricultural seed present in such mixture in excess of five per cent (5%) by weight, together with the month and year said seed was tested. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated, separately; with the provision that any portion or all of such hard seed may be added to the percentage of germination and stated as 'total live seed.'

"(f) Full name and address of the vendor of such mixture.

"(g) When space is provided on labels appearing on seed, providing for the insertion of specific items relative thereto and such spaces are left open, the blank space or spaces shall be deemed to imply that the word 'none' was intended, when such interpretation is reasonable.

"9. The commissioner of agriculture of the State of Montana shall prescribe the form and outline text of all labels to be used as provided for in this section. Form.

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Sale of certain seeds unlawful.

"10. Prohibition of sales of certain seeds. It shall be unlawful for any person, firm, co-partnership, corporation or association to sell, or to offer for sale, or to expose or display for sale, any agricultural seed within the State of Montana, irrespective of the place of origin of such seed, which contains noxious weed seeds of any one, or more, of said groups of noxious weed seeds as follows:

"(1) Group I, noxious weed seeds in excess of nine (9) such seeds per pound of agricultural seed; or

"(2) Group II, noxious weed seeds in excess of nine (9) such seeds per pound of agricultural seeds, unless stated on the analysis tag or label; or

"(3) Group III, noxious weed seeds in excess of forty-five (45) such seeds per pound of agricultural seed unless stated on the analysis tag or label; or

"(4) Any agricultural seed containing in excess of two per centum (2%) or more of weed seed; or

"(5) Any agricultural seed which has a germination test dated more than nine (9) calendar months prior to date of sale.

"(6) In mixtures represented by printed labeling, by pictorial illustrations, or in any manner whatsoever, to be for lawn seeding purposes, unless they contain at least fifty per cent (50%) pure seed of perennial fine-leaved species which shall be specified by rules and regulations pursuant to this act. Provided, however, grass mixtures which do not contain fifty per cent (50%) pure seed of perennial fine-leaved grasses may be sold. Provided further that when in packages of twenty-five (25) pounds or less, they shall carry the statements 'Not recommended for a fine-leaved perennial turf. Satisfactory for a temporary ground cover or where coarse grass is not objectionable.'

"A definition of fine-leaf varieties to be promulgated in the regulations is as follows:

"(a) Bluegrasses — all varieties except Canada Bluegrass (Poa Compressa);

"(b) Chewings Red Fescue and all improved varieties;

"(c) Creeping Red Fescue and all improved varieties;

"(d) Bentgrass — all varieties.

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Commissioner may amend classification of noxious weed seeds after public hearing on notice.

"11. Commissioner's right to revise or amend. The commisisoner of agriculture may, with the written approval of the director of the Montana experiment station recorded prior to or within ten (10) days after the public hearing, prescribed herein, add to or remove from, revise, or modify the foregoing groups and classifications of noxious weed seeds, and the noxious weed seeds within any groups or classifications, as the circumstances may require in aid of the purpose of this act to prevent or diminish the distribution and occurrence of such noxious weed seeds within the State of Montana, but no additions, removals or modifications shall be made without a full public hearing, on adequate and informative written or published notice plainly stating the exact additions, removals or modifications proposed to be made, and said notice shall be given by the commissioner at least thirty (30) days before the day set for said hearing and shall state the time and place of said hearing, and said notice shall be published in three (3) newspapers of general circulation in the state, and such notice shall be mailed to all associations of seed dealers in the state who are organized on a state-wide basis. If any revision or modification is determined to be made as a result of any such hearing, the same shall be promulgated by a written order of the commissioner, countersigned 'approved' by the director of the Montana experiment station, plainly stating the revisions or modifications and the effective date or dates thereof, and any and all qualifications, exceptions or conditions connected with such revisions or modifications."

Approved March 6, 1961.

CHAPTER 169

An Act to Amend Section 75-4603 of the Revised Codes of Montana of 1947, Relating to Issuance of Bonds by High School Districts and Providing That Bonds May be Issued to the Full Amount Permitted by Section 6 of Article XIII of the Montana Constitution, as Amended; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-4603 of the Revised Codes

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of Montana, 1947, be, and the same is hereby amended to read as follows:

Board of trustees of high school districts—authority to issue bonds.

"75-4603. **Bonds may be issued by trustees.** Each high school district created under this chapter shall be a corporation separate from the common school districts included therein. The boards of trustees of high school districts established under this act are hereby vested with the power and authority to issue and negotiate bonds on the credit of the high school districts in conformity with and for any one or more of the purposes provided in section 75-3901, and to the full amount permitted by section 6 of article XIII of the state constitution, *as amended.*"

Effective immediately

Section 2. This act shall be in full force and effect on and after its passage and approval.

Approved March 6, 1961.

CHAPTER 170

An Act to Amend Section 10-507, Revised Codes of Montana, 1947, Relating to the Amount of County's and Parent's Contribution for Children in Montana Children's Center; to Provide for an Increase in the Amounts to be Paid by Counties and Parents for Children in the Montana Children's Center From Ten Dollars ($10.00) Per Month to Twenty-five Dollars ($25.00) Per Month.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 10-507, Revised Codes of Montana, 1947, is amended to read as follows:

Court may order contribution by parent for care of minor child.

"10-507. On the hearing the court may hear evidence regarding the financial ability of any such parents or parent, to pay such cost, and may take into consideration the report of such investigation filed with the clerk of the court, as provided in section 10-506. And if, on such hearing, the court shall find and determine that said child has parents, or a parent, who is financially able to pay a part or the whole of such cost, and such child shall be ordered placed in the said Montana children's center, or placed in a foster home, the court shall make an order requiring such parents, or parent, to pay therefor such amount as the court may deem proper, and if on such

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hearing any child shall be ordered placed in the said Montana children's center, the county in which such child resides shall pay to said Montana children's center *twenty-five* dollars *($25.00)* per month for such time as the child shall remain therein, and in turn shall collect in its own name from any parent or parents such amount, if any, as the court has specified in its order to be paid by such parent or parents. If such child be placed in a foster home the state department of public welfare shall pay one-half (½) of the cost thereof, and the county in which such child resides shall pay the other one-half (½) thereof, and in turn shall collect in its own name from any parent or parents such amount, if any, as the court has specified in its order to be paid by such parent or parents, provided that one-half (½) of any amount collected by the county from a parent or parents, when a child is placed in a foster home, shall be transmitted to the state department of public welfare, and by it paid over to the state treasurer, who shall deposit the same to the credit of the state general fund.''

Contribution by state and county.

Approved March 6, 1961.

CHAPTER 171

An Act to Amend Section 75-2506, Revised Codes of Montana, 1947, Relating to Revocation and Suspension of Teachers' Certificates for Causes Including Contract Violation and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-2506, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

''75-2506. **Revocation and suspension.** 1. Revocation and suspension of permits and certificates. The state board of education is authorized and required to revoke and annul, at any time, any certificate heretofore issued by the state board of education or state board of educational examiners, or state superintendent of public instruction, or which may hereafter be issued by the state board of education or state superintendent of public instruction, for any cause which would have required or

Revocation and suspension of teachers' certificates for cause.

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authorized a refusal to grant if it had been known at the time it was granted, and for incompetency, immorality, intemperance, physical inability, crime against the state law, refusal to perform duty or general neglect of the business of the school; but, before any such revocation, the holder shall be served by the state superintendent of public instruction with a written statement of the charges against him, and shall be afforded an opportunity for defense before the state board of education.

Suspension and cancellation for breach of teacher's contract.

2. Suspension and cancellation of teachers' permits and certificates for violation of contract. Should any teacher employed by a board of school trustees *fail to comply with the terms of any contract entered into by such teacher and trustees,* without the consent of the trustees in writing, or without good cause, in the judgment of the state board of education, said teacher shall be guilty of unprofessional conduct, and the state board of education may, upon receiving notice of such fact, and after making investigation of the circumstances thereof, suspend the permit or certificate of such teacher for the remainder of the school year, or the next ensuing year, or both. A second serious violation of contract by the same teacher shall, in the discretion of the state board of education, be deemed sufficient cause for the revocation and cancellation of said teacher's permit or contract.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1961.

CHAPTER 172

An Act to Provide That an Indictment, Information, Complaint or Accusation May Charge Two or More Offenses Under Separate Counts; Providing for the Consolidation of Two or More Indictments, Informations, Complaints, or Accusations; Providing That Election by Prosecution is Not Required; Providing That Conviction May be Had on Any Number of Offenses Charged; Providing for a Statement in Verdict, and That the Court May Order Trial of Different Offenses Charged Separately or in Groups; Providing for Effect of Ac-

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quittal on Part of Counts; Amending Section 94-6703, Revised Codes of Montana, 1947, Relating to Demurrers in Criminal Cases, by Deleting Sub-section (3) Thereof; and Repealing Section 94-6407, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Two or more different offenses may be charged.

Section 1. An indictment, information, complaint or accusation may charge two or more different offenses connected together in their commission, or different statements of the same offense or two or more different offenses of the same class of crimes or offenses, under separate counts, and if two or more indictments, informations, complaints or accusations are filed in such cases in the same court, the court may order them to be consolidated. The prosecution is not required to elect between the different offenses or counts set forth in the indictment, information, complaint or accusation, but the defendant may be convicted of any number of the offenses charged, and each offense of which the defendant is convicted must be stated in the verdict or the finding of the court; provided, that the court in which the case is triable, in the interests of justice and for good cause shown, may in its discretion order that the different offenses or counts set forth in the indictment, information, complaint and accusation be tried separately or divided into two or more groups and each of said groups tried separately. An acquittal of one or more counts shall not be deemed an acquittal of any other count.

Effect.

Court may order separate trials.

Amending clause.

Section 2. That section 94-6703, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Grounds of demurrer to indictment or information.

"94-6703. (11898) **Grounds of demurrer.** The defendant may demur to the indictment or information, when it appears upon the face thereof, either —

1. If an indictment, that the grand jury by which it was found had no legal authority to inquire into the offense charged, by reason of its not being within the legal jurisdiction of the county; or, if an information, that the court has no jurisdiction of the offense charged therein;

2. That it does not substantially conform to the requirement of sections 94-6403, 94-6404 and 94-6405;

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3. That the facts stated do not constitute a public offense;

4. That it contains any matter, which if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.''

Repealing clause.

Section 3. Section 94-6407, Revised Codes of Montana, 1947, is hereby repealed and all acts and parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1961.

CHAPTER 173

An Act to Provide That Any Person, Other Than the Owner, His Agent or Employee, Who, Without Consent of the Owner, Removes or Causes to be Removed From This State Any Cow, Ox, Bull, Stag, Calf, Steer, Heifer, Horse, Mule, Mare, Colt, Foal or Filly, Without an Inspection Where Such Inspection is Required by Law Shall be Guilty of a Felony; Providing, However, That This Act Shall Have No Application to the Removal of Livestock From This State for Emergency Treatment by a Licensed Veterinarian, Excluded From This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Removal of livestock from state without inspection declared a felony.

Section 1. *Any person, other than the owner, his agent or employee, who, without consent of the owner,* removes or causes to be removed from this state any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly, without having the same inspected where such inspection is required by law shall be guilty of a felony and shall be punished by a fine of not more than two thousand dollars ($2,000.00) or by imprisonment in the state prison for a term of not more than three (3) years, or by both such fine and imprisonment; *provided, however, that the provisions of this section shall not apply to any person who removes from this state any animal specified by this section for the purpose of obtaining emergency treatment for such animal by a licensed veterinarian, excluded from this act.*

Exception—emergency treatment.

Approved March 6, 1961.

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CHAPTER 174

An Act Relating to Standards for Petroleum Products, and the Regulation of Manufacture and Distribution of Such Products; Permitting the Commissioner of Agriculture to Determine the Standards for All Petroleum Products Sold in Montana and Transferring Enforcement Duties From the Public Service Commission to the Commissioner of Agriculture by Creating New Sections, by Amending Sections 60-204, 60-205, 60-210, 60-211, 60-212, 60-213, 60-214, 60-217, 60-219, 60-220 and 60-222, Revised Codes of Montana, 1947, and by Repealing Sections 60-203, 60-206, 60-207, 60-208, 60-209, and 60-221, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. "Commisisoner" means the Montana commissioner of agriculture for purposes of this act.

Commissioner of agriculture may regulate.

Section 2. The provisions of this chapter shall be enforced by the commissioner of agriculture. He may promulgate necessary and reasonable rules and regulations for the interpretation of the provisions and intent of this chapter, and the same shall have the force and effect of law.

Standards of petroleum products to be determined.

Section 3. The standards of quality, strength and purity for household gasoline, motor gasoline, kerosene, tractor fuel, diesel oil, heating oil, other domestic and industrial fuel oil and liquefied petroleum gases, including propane, propylene, normal butane or isobutane, and butylene shall be determined by the commissioner of agrciulture and shall be based upon nationally recognized standards such as are published from time to time by the American Society for Testing Materials and the Natural Gasoline Association of America. When so determined by the commissioner and adopted and promulgated as regulations and orders of the commissioner such standards shall be the standards for such petroleum products sold in this state, and official tests of such petroleum products shall be based upon test standards so determined, adopted and promulgated.

Amending clause.

Section 4. Section 60-204, Revised Codes of Montana, 1947, is amended to read as follows:

Commissioner to enforce.

"60-204. The *commissioner of agriculture* is hereby required to secure the proper enforcement of this act, to

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procure for inspection and test and cause to be inspected and tested suitable samples of the commodities enumerated herein, to make all necessary rules and regulations not inconsistent with the terms of this act for the procuring and transmission of said samples and for reporting the results of analyses; to inform the county attorney of the proper county of all cases of violations of this law and to require said county attorney to assist in investigations under the provisions hereof and to ascertain the facts with respect thereto."

Amending clause.

Section 5. That section 60-205, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Unlawful to sell substandard products.

"60-205. *It shall be unlawful to sell, offer or expose for sale any petroleum product for which standards or minimum specifications have been set by the commissioner of agriculture unless the said commodities shall, in all respects, meet the tests and standards prescribed, and no person shall sell, offer or expose for sale, any petroleum product which is adulterated, misbranded, or misrepresented with respect to the use for which it is reasonably intended.*"

Amending clause.

Section 6. Section 60-210, Revised Codes of Montana, 1947, is amended to read as follows:

Testing.

"60-210. That the *commissioner* is hereby authorized to employ a laboratory having sufficient facilities to make tests of petroleum products as required by *this act,* and to pay reasonable compensation for the analyses and tests made by such laboratory."

Amending clause.

Section 7. Section 60-211, Revised Codes of Montana, 1947, is amended to read as follows:

Inspections and tests.

"60-211. The *commissioner* is hereby empowered to make and cause to be made, such inspections as may be necessary to secure compliance with this act and the safe handling and use of the commodities enumerated herein.

Specifically, such tests shall cover and be applicable to:

(a) Any of the enumerated commodities manufactured or refined in this state and distributed to dealers in this state;

(b) Any of the enumerated commodities shipped into

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this state from points outside thereof and resold or distributed to dealers for resale or distribution in this state;

(c) Any of the enumerated commodities exposed or offered for sale in this state.

Any gasoline, petroleum or distillate shipped into this state for the use by shipper or consignee in any place where the same is or may be dangerous to human life or public safety shall be subject to test and inspection by the *commisisoner* as in this act provided."

Section 8. Section 60-212, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"60-212. All dealers shall post in at least two conspicuous public places each and every plant, filling station or distribution agency operated by and through them, a notice of the public, on forms to be prescribed by the *commissioner,* advising the public in plain terms of the grade and character of commodities offered for sale or sold therein. If such dealers are engaged in selling more than one grade, quality or character of commodity under the description "high test" or "winter gasoline" or "high power gasoline," or "more mileage gasoline," or under any term indicating that the commodity has been specially treated to produce special results and secure particular effects, said notice shall plainly state the difference in the character, grade or quality of the commodity. Dealers must post notice to public.

It is hereby made the duty of every dealer subject to the provisions of this act, to submit to the *commissioner* such quantity of the commodity to be tested as the *commissioner* shall require, accompanied by such data with respect thereto as the *commissioner* may prescribe. Dealer must furnish testing samples.

Section 9. Section 60-213, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"60-213. Nothing in this act contained shall prevent the manufacture or sale of engine distillates, power distillates, or kerosene distillates which do not conform to the standards of quality, purity and strength prescribed by the *commissioner;* provided, however, that the package or other container in or from which the same are sold, or offered for sale, shall be plainly labeled in a conspicuous manner easily visible to the purchaser in such a manner as to indicate the name and character thereof; *or if the same* Substandard distillates must be labeled.

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Substandard bulk sales.

be sold in bulk, then the shipping or other papers shall describe the character thereof, such description to be set forth in a conspicuous manner so as to give clear notice to the purchaser that the products sold do not conform to the standards of quality, purity and strength prescribed by the commissioner.

Amending clause.

Section 10. Section 60-214, Revised Codes of Montana, 1947, is amended to read as follows:

Dealer may apply for registration of trade name.

"60-214. Any dealer within the provisions of this act or any other seller or distributor of the commodities named herein, selling or offering for sale under any trade name, designation or description any of the commodities named herein may make application to the *commissioner* for registration of said trade name, designation, description or device, and if the same shall, in the judgment of the *commissioner* be a fair name, and not confusing to users and buyers of commodities named herein, and if the same shall not conflict with any previously registered name, said *commissioner* shall register such name and the same shall be the exclusive property of the dealer so registering the same, and any infringement thereof in public advertisement or competitive salesmanship shall constitute cause for revocation of the license of the infringer after due hearing as in this act provided."

Effect of registration.

Amending clause.

Section 11. Section 60-217, Revised Codes of Montana, 1947, is amended to read as follows:

Commissioner shall have access to take samples.

"60-217. For the purpose of obtaining information regarding suspected violation of this act, said *commissioner* or any member thereof, or duly authorized representative shall have access to all places where the commodities enumerated herein are sold, offered for sale or kept for sale, manufactured, transported, or stored, and may take samples therefrom for analysis tendering payment therefor.

User's right to sample.

Any user or customer shall have the right, upon tendering payment therefor to receive from any dealer, a sample of any commodity sold for purpose of having analysis and test thereof made by the state chemist through the *commissioner.*

Authority to inspect.

The commissioner, or any duly authorized representative thereof shall have the right to inspect any of the commodities enumerated herein, whether the same originate

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at points without the state or otherwise and whether the same are in transport or at rest in places where they are dangerous to human life or public safety.

Any person obstructing any entry or inspection authorized by this section, or failing upon request to assist therein shall be *in violation of this act.* The *commissioner* shall employ from time to time such inspectors as said *commissioner* shall deem necessary to carry out the provisions of this act, and said *commissioner* shall fix the compensation of such inspectors.

Amending clause.

Section 12. Section 60-219, Revised Codes of Montana, 1947, is amended to read as follows:

Commissioner may revoke, cancel or suspend license.

"60-219. If the *commissioner* shall find that any dealer operating under this act has violated any of the provisions hereof, or of any lawful order or decision of the *commissioner,* promulgated pursuant to the provisions of this act, the *commissioner* shall, after due hearing thereon, noticed for not less than ten days, revoke, cancel, or suspend any license that it has theretofore granted; and such revocation, cancellation or suspension, may be conditioned on such terms as to the *commissioner* may seem just and proper."

Amending clause.

Section 13. Section 60-220, Revised Codes of Montana, 1947, is amended to read as follows:

Authority of commissioner to revoke license for cause.

"60-220. The *commissioner* is hereby vested with authority to revoke the license to engage in the business of selling gasoline and other petroleum products within the State of Montana, issued by such *commissioner* to any person, firm, partnership, association or corporation, where such person, firm, partnership, association or corporation is by such *commissioner* found guilty of charging an exhorbitant or unreasonable price for gasoline sold within the state to residents of the state, or of discriminating between individuals or localities within the state in the prices charged for gasoline, or of discriminating between citizens of this state and citizens of adjoining states, to the disadvantage of the former, in the prices charged for gasoline. Anybody aggrieved by the action of such person, firm, partnership, association or corporation in so charging an exhorbitant or unreasonable price for gasoline or in so discriminating between individuals or localities or in so discriminating between citizens of this state and

Written charges by aggrieved party.

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citizens of adjoining states may file written charges with such *commissioner* against such person, firm, partnership, association or corporation, and thereupon the *commissioner* shall issue a citation to such person, firm, partnership, association or corporation to show cause before the *commissioner* within twenty days thereafter why his, their or its license should not be revoked. Such person, firm, partnership, association or corporation may appear by counsel at the hearing and contest the charge. If the charge be established by a preponderance of the evidence the *commissioner* shall make an order revoking the license, otherwise the charge shall be dismissed. Within thirty days after the order of revocation is made such person, firm, partnership, association or corporation may appeal therefrom to the district court of the county in which the hearing was had. The appeal must be tried in the district court upon the record made before the *commissioner,* but it shall not of itself result in staying the orders of revocation. Nothing provided in this act is intended to interfere with or regulate commerce between states, the legislature in passing the same being actuated solely by a desire to protect the citizens of Montana against imposition."

Citation.

Hearing.

Appeal.

Amending clause.

Section 14. Section 60-222, Revised Codes of Montana, 1947, is amended to read as follows:

Penalties for violation.

"60-222. If any person, firm, co-partnership or corporation coming within the provisions of this act shall violate any of the provisions of this act or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, *or violates or fails to comply with any rule or regulation issued pursuant to this act,* for every such violation, failure or refusal such person, firm, co-partnership or corporation, shall, in addition to the forfeiture of license as hereinbefore provided, be for the first offense punished by a fine of not less than ten dollars ($10,00) and not to exceed one thousand dollars ($1,000.00), and shall be punished for any subsequent offense by a fine of not less than fifty dollars ($50.00) nor more than five thousand dollars ($5,000.00), or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and imprisonment."

Severability clause.

Section 15. If any section, subsection, sentence, clause or provision of this act is held invalid, such invalidity

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shall not affect any other part of this act, and the remaining parts shall remain in force.

Repealing clause.

Section 16. Sections 60-203, 60-206, 60-207, 60-208, 60-209 and 60-221, Revised Codes of Montana, 1947, are hereby repealed.

Approved March 6, 1961.

CHAPTER 175

An Act Amending Section 69-3304, Revised Codes of Montana, 1947, Enacted as Section 4, Chapter 235, Laws of 1955, Relating to Geophysical Exploration and Referring to Proper Plugging of 'Shot Holes' and Restoration of Surface Around Same to Original Condition; Providing Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 69-3304, Revised Codes of Montana, 1947, enacted as section 4, chapter 235, laws of 1955, be and the same is hereby amended to read as follows:

Surety bond required for geophysical exploration.

"69-3304. **Surety bond required — Amount — Filing** *Proper plugging and restoration of surface* — **Certificate of filing.** A person, firm or corporation desiring to engage in such geophysical exploration, shall also file with the secretary of state a good and sufficient surety bond in the amount of ten thousand dollars ($10,000.00) for a single such geophysical crew or a blanket surety bond in the amount of twenty-five thousand dollars ($25,000.00) for all such geophysical crews operating within the state for such person, firm or corporation, which bond shall indemnify the owners of property within this state against such physical damages to such property as may arise as the result of such geophysical exploration. *Unless otherwise agreed as between the owner of the surface and such person, firm, or corporation, it shall be the obligation of such person, firm, or corporation upon completion of exploration to plug all 'shot holes' and restore the surface around the same as near as practicable to its original condition.* The said bond shall remain on file with the secretary of state so long as the exploration is carried on or engaged in, plus an additional two (2) years thereafter;

Restoration.

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provided, however, that the aggregate liability of the surety shall, in no event, exceed the amount of said bond. Upon the filing of such bond, said secretary of state shall issue to the person, *firm* or corporation a certificate showing that such bond has been filed and showing the name of the designated resident agent within the state for service of process for such person, firm or corporation."

Certificate of bond.

Service of process.

Effective immediately.

Section 2. **Effective date.** This act shall be in full force and effect from and after passage and approval.

Approved March 6, 1961.

CHAPTER 176

An Act to be Known as the Montana Water Well Contractor's License Act; Declaring That the Drilling or Making of Water Wells is a Business Affecting the Public Interest; Creating the Water Well Contractor's Examining Board of the State of Montana; Providing for Its Members, Terms, Oath, Seal and Employees; Providing for the Powers and Duties of the Board; Providing for the Issuance of Licenses by the Board and Fees to be Charged Therefor; Providing for the Term of the License Year; Providing for Examination and Qualifications of Applicants for Licenses; Providing for a Bond to be Approved by the Board; Providing for Revocation and Suspension of Licenses; Providing for Appeals for Licensees From Decisions of the Board; Providing That No Action or Counterclaim Can be Maintained Except by Licensee; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing an Effective Date of the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Title.

Section 1. **Title of the act.** This act may be cited as the Montana water well contractor's license act.

Purpose— to preserve water resources.

Section 2. **Purpose of the act.** It is the legislative intent and purpose in this enactment to reduce and minimize the waste of ground water resources within this state by reasonable regulation and licensing of drillers or makers of water wells in Montana and to protect the health and general welfare by providing a means for the develop-

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ment of the natural resource of underground water in an orderly, sanitary and reasonable manner. The reasonable regulation and licensing of drillers or makers of water wells is hereby deemed and declared to be in the best interest of the public, and the waste of ground water resources through inefficient and/or incompetent operations of drillers or makers of such water wells is hereby prohibited. Further, for the protection of the public and for the conservation of underground water resources, it is deemed necessary that standards be set and maintained to insure that competency in the drilling and making of water wells in this state is obtained.

"Water well" defined.

For the purposes of this act, "water well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of the same is for the location, diversion, artificial recharge, or acquisition of ground water; provided, however, that the term "water well" does not include excavations by back-hoe, or otherwise, for recovery and use of surface waters where the depth thereof is twenty-five (25) feet or less; provided further, however, that this term does not include an excavation made for the purpose of obtaining or prospecting for oil, natural gas, minerals or products of mining or quarrying or for inserting media to repressure oil or natural gas bearing formations or for storing petroleum, natural gas or other products; for the purposes of this act, "water well contractor" and "contractor" mean any person, firm, co-partnership, association, or corporation, who shall construct a water well upon lands other than his own, for compensation.

Exempt persons.

This act shall not apply to (1) an individual who drills a water well on land which is owned or leased by him and is used by him for farming, ranching or agricultural purposes or as his place of abode, or (2) to an individual who performs labor or services for a licensed water well contractor in connection with the drilling of a water well at the direction and under the personal supervision of a licensed water well contractor.

Water well drilling affected with public interest.

Section 3. **Water well drilling is a business.** The drilling, making or construction of water wells into the ground water resources of this state is declared to be a business and activity affecting the public interest, requiring reasonable standards of competence. It shall be un-

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License required.

lawful for any person, as defined in this act, to construct a water well without first having obtained a valid license therefor as provided for herein.

Examining board created.

Section 4. **Water well contractor's examining board — Members — Terms — Oath — Seal — Employees.** (1) There is hereby created the water well contractor's examining board of the State of Montana.

(2) The water well contractor's examining board of the State of Montana shall be composed of three (3) persons. One (1) of said persons shall be the state engineer, appointed, qualified and acting pursuant to the provisions of section 81-2006, Revised Codes of Montana, 1947; one (1) of said persons shall be the director of the division of environmental sanitation of the state board of health of the State of Montana; and one (1) of said persons shall be appointed by the governor with the concurrence of the state senate. In making this appointment, the governor may consider recommendations made to him by the Montana water well drillers association, and shall be from the water well drilling industry. The appointive member of the said board shall serve for a term of three (3) years. In case of a vacancy in the office of a member of the board, an appointment shall be made to fill the same in the manner prescribed by the constitution and the laws of this state. The appointive member of the board shall have been a bona fide resident of this state for a period of at least three (3) years prior to such appointment and shall have had at least five (5) years' experience in the water well drilling business.

One member appointed by governor.

Term.

Qualifications.

Oath.

(3) The appointive member of the board shall, upon entering on the duties of his office, take and subscribe to the oath specified in section 1, article XIX, of the constitution of the State of Montana, and such oath shall be filed in the office of the secretary of state of the State of Montana.

Seal of board.

(4) The board shall have a seal with the words engraved thereon: "Water well contractor's examining board," and such seal shall be affixed to all writs, authentication of records, and other official proceedings of the board. The courts of this state shall take judicial notice of such seal.

Authority to employ.

(5) The board may, in its discretion, employ a secre-

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tary and such other persons as may be necessary to perform the duties of the board, either upon a part time basis or upon a full time basis. Payment for any such services shall be made out of the hereinafter designated fund, and no other. The appointed member of the board shall receive, as compensation for his services, the sum of fifteen dollars ($15.00) per day for each day actually engaged in the performance of the duties of his office, including time of travel between his home and the places at which he shall perform such duties, together with mileage and per diem expenses as provided by law. Such payments to the appointed member of compensation, mileage and per diem expenses shall be made out of the hereinafter designated fund, and no other. The state engineer and the director of environmental sanitation of the state board of health of the State of Montana shall receive no extra compensation for their services as members of the board.

Compensation.

Section 5. **Powers and duties of the board.** (1) The board has jurisdiction to exercise effectively the authority granted to it by this act.

Jurisdiction of board.

(2) The board has authority, and it is its duty, to promulgate, publish and enforce reasonable rules and regulations and orders to effectuate the purposes and intent of this act as expressed herein.

Board to regulate.

(3) The board, or its authorized representative, shall have the power and authority to inspect water wells drilled, or drilling, and shall have access to the same at all reasonable times.

Inspection.

(4) The board shall have authority to establish a program, or programs, of training water well drillers or prospective water well drillers and apprentices, the more effectively to carry out the purposes and intent of this act.

Training program.

(5) Within one hundred twenty (120) days of the effective date of this act, the board shall organize and conduct a public hearing for the purpose of adopting reasonable rules and regulations for the future conduct of its business. Such hearing shall be had only after at least ten (10) days' printed notice of the same has been given, announcing the hearing, the time, the place and the purpose therefor. Publication shall be made in at least five (5) daily newspapers in this state.

Public hearing.

Notice.

Publication.

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Printed rules and regulations—fees deposited in "water well contractor's examining board fund."

Following such hearing, said rules and regulations shall be adopted and compiled in printed form for distribution to interested persons. The board shall charge a fee of fifty cents (50¢) per copy, and sums realized from such sales shall be deposited with the treasurer of this state in a special fund to be designated as the "water well contractor's examining board fund," and the funds therein shall be used for the purpose of paying expenses of the board, and for no other purpose. All sums expended from this fund shall *be approved as provided by law.* Upon termination of this board, any balance remaining in said fund shall be paid over to the general fund of the State of Montana. All accounts and expenditures of said board shall be certified by the board, approved by the board of examiners of the State of Montana, and paid by the state treasurer upon warrants drawn by the state auditor out of said fund.

Approval of expenditures.

Board to issue licenses.

(6) The board has authority, and it is its duty, to issue licenses to qualified water well contractors in this state; to cause examination to be made of applicants for licenses; to revoke or suspend licenses upon good cause shown after their issuance, after notice to the person affected and an opportunity for him to be heard; to reinstate licenses previously revoked when justification therefor is shown to the satisfaction of the board; and, generally, to perform any and all duties which will carry out the purposes and intent of this act as expressed herein.

Application for license.

Section 6. **Water well contractor's licenses.** Any person desiring to engage in the drilling, making or construction of one (1) or more wells for underground water in this state shall first file an application with the board for a contractor's license, setting out his qualifications therefor, the equipment proposed to be used in such contracting, and such other business as may be required by the board, all upon forms to be adopted by the board. The

Fee.

board shall charge a fee of one hundred dollars ($100.00) for the filing of such aplication by any person, and it shall not act upon any application until such fee has been paid. All fees collected hereunder shall be deposited with the state treasurer in the "water well contractor's examining board fund," and shall be used to pay expenses of the board as set forth in this act, and for no other purpose. A license to construct water wells shall be issued to any

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applicant if, in the opinion of the board, such applicant is qualified to conduct water well construction operations. In the granting of such licenses, the board shall have due regard for the interest of the State of Montana in the protection of its underground waters. Applicants for licenses hereunder who have engaged in the business of water well drilling or construction for a period of more than three (3) years prior to the effective date of this act, and who have been bona fide residents of the State of Montana for more than one (1) year preceding the date of application, may, at any time within one (1) year after the effective date of this act make application for license hereunder and payment of the fee of one hundred dollars ($100.00), as herein provided, and the board shall issue a license to any such applicant without examination, when he shall submit evidence, under oath, satisfactory to the board that he is of good character, that he was engaged in the occupation of water well contractor at the time this act became effective, and that his work as such is satisfactory to the board. All other applicants shall be subject to examination as hereinafter provided.

Requirements for license without examination.

Section 7. **License year.** The term for licenses issued under the terms and provisions of this act shall be from the 1st day of July of each year through the following 30th day of June. After the payment of the initial fee, as provided for in the immediately preceding section, each licensee hereunder shall pay, on or before the first day of each license year, a renewal fee of twenty-five dollars ($25.00). If a licensee shall not have applied for renewal of his license before the first day of any license year and remitted to the board the necessary renewal fee, he shall have his license suspended by the board; and, if said license remains so suspended for a period of more than thirty (30) days after the first day of any license year, it shall be revoked by the board; provided, however, that the board, prior to such revocation, shall notify the licensee of its intention to revoke at least ten (10) days prior to the time set for action to be taken by the board on such license, by mailing notice of the same to the licensee at the address appearing for such licensee in the records and files of the board, through United States mail, postage prepaid. A license, once revoked, may not be reinstated unless it shall appear that an injustice has occurred through error or omission, or other fact or circumstance

License year.

Renewal fee—effect of failure to pay.

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indicating to the board that the licensee was not guilty of negligence or laches. A person whose license has been revoked, through his own fault, if he desires to engage in the business of water well drilling in this state, or contracting therefor, must make application as provided for in the preceding section, and the "without examination" proviso contained therein shall not apply to him. Notice of suspension shall be given a licensee when such suspension occurs.

Examination and qualifications of applicants.

Section 8. **Examination and qualifications.** Under such reasonable rules and regulations pertaining to the business of drilling and contracting for drilling of water wells as the board shall adopt, it shall have the power and it shall be its duty to investigate, by examination or otherwise, into the qualifications of applicants for licenses to drill or make wells for production therefrom of underground waters in this state. Examinations by the board may be oral or written or both. The qualifications to be required by the board hereunder are as follows: (1) Familiar knowledge of Montana ground water laws and sanitary standards for water well drilling and construction of water wells; (2) knowledge of types of water well construction; (3) knowledge of types of drilling tools and their respective uses; (4) knowledge of underground geology in its relation to well construction; (5) possession of adequate equipment by the applicant to complete satisfactory water wells under the standards to be adopted by the board for such wells; (6) financial responsibility of the applicant by competent proof of the same; (7) successful completion of an examination given by or under direction of the board.

The examinations conducted by the board shall be held at such times and places as the board may determine. Failure of an applicant to successfully complete such examination shall disqualify him from making further application for a period of six (6) months. The board shall act within a reasonable time upon all applications for licenses hereunder. Each application shall be accompanied by the initial fee, as set forth herein, and failure to successfully meet the requirements of the board shall not entitle such applicant to a refund of said fee.

Bond required.

Section 9. **Bond to be required.** The board, upon issuance of a license hereunder to any person, shall, before

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such person commences operations within the State of Montana, require a good and sufficient surety bond, to be approved by the board, in the penal sum of one thousand dollars ($1,000.00), conditioned that such licensee will comply with the rules and regulations of the board and all reasonable requirements made by the board in connection with the drilling of any individual well.

Revocation and suspension of license for cause.

Section 10. **Revocation and suspension.** Any license issued hereunder may be suspended or revoked by the board, in cases other than failure of a licensee to renew such license, after notice and hearing, in the event the licensee shall have been found to have violated any condition of the bond maintained by him as a prerequisite to issuance of such license, or for the practice of fraud or deceit in obtaining a license, or for gross negligence, incompetence, conviction of a felony, or violating the requirements of this act. Any person may make complaint against any licensee hereunder. Such complaints shall be in writing, signed by the complainant, and must specify the charges against said licensee. The board, on its own motion, may bring on a hearing of charges hereunder.

Hearing on complaint.

Upon receipt of a complaint by the board, or upon the board's own motion, the same shall be set for hearing, and the board shall cause the licensee concerned to be given at least ten (10) days' written notice prior to the time set for such hearing, notifying him of the time and place of the hearing and furnishing him with a true and correct copy of the complaint. Service upon such licensee shall be deemed to have been made when said notice and a copy of complaint are deposited by the board in the United States mail, in an envelope securely sealed with the correct amount of postage thereon, addressed to the licensee at the address shown in the records and files of the board for such licensee. At any hearing before the board, any party may appear either in person or by counsel, except that the person bringing the complaint shall have the burden of proof and must appear in person. A unanimous vote of the board shall be required in order to revoke or suspend a license issued hereunder. In the event that a suspension is directed by the board, it shall not be for a period in excess of one (1) year.

Notice.

Service

Appearance.

Board decision.

Appeal to district court.

Section 11. **Appeals.** Appeals from decisions of the board may be taken to the district court of the first judi-

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cial district of the State of Montana, in and for the County of Lewis and Clark, in which district the board shall maintain its office in connection with the office of the state engineer, *or the district court of any judiciary district in which the land affected is situated, in whole or in part.* Appeals from board decisions may be taken immediately to said court without first requesting rehearing, reconsideration, or review of the board, but, in order to perfect such an appeal, it shall be taken within thirty (30) days of the date of the decision of the board. The appeal shall be perfected by the filing of a notice of appeal with the board and a copy of said notice with the clerk of the said district court. The trial shall be had summarily before the district court upon the record of the evidence presented to the board of which a complete record must be kept of the hearings of the board as shown by said transcript and the exhibits, if any, presented to the board and certified by it, and upon which its decision was rendered, and there shall not be any additional evidence introduced or anything in the nature of a trial *de novo.* The court shall not substitute its judgment or discretion for that of the board, but shall determine whether the board acted capriciously, arbitrarily, or abused its discretion, and whether it acted according to the law. An appeal may be taken from any final determination of said district court to the supreme court of this state as in other civil cases.

Notice of appeal.

Appeal to supreme court.

License condition precedent to suit.

Section 12. **No action or counterclaim to be maintained except by licensee.** No action or counterclaim shall be maintained by any contractor in any court in this state with respect to any agreement, work, labor, or materials for which a license is required by this act, or to recover the agreed price or any compensation under any such agreement, or for any such work, labor or materials for which a license is required by this act without alleging and proving that such contractor had a valid license at the time of making such agreement and of supplying such labor, work or materials.

Penalties for violation.

Section 13. **Penalties.** Any person who shall wilfully violate any lawful regulation, rule or order of the board, or who shall engage in the business of drilling or making water wells without first having obtained a license as in this act required, or who shall violate any provision of this act, shall be guilty of a misdemeanor, and upon con-

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viction shall be subject to a fine of not more than five hundred dollars ($500.00), or imprisonment in a county jail for a term not exceeding six (6) months, or both. Any violation of this act shall be prosecuted by the county attorney in the county in which the said violation occurred or is occurring, and the trial thereof shall be held in that county.

Repealing clause.

Section 14. **Repeal clause.** Any act or part of any act in conflict herewith, in whole or in part, is hereby repealed to the extent of such conflict.

Severability clause.

If any part of this act should be declared unconstitutional, that shall not affect the validity or constitutionality of the remainder of this act. Specifically, this act neither augments nor conflicts with sections 69-1301 through 69-1341, Revised Codes of Montana, 1947, dealing with public and other water supplies under the jurisdiction of the state board of health of the State of Montana.

Effective July 1, 1961.

Section 15. **Effective date.** The effective date of this act shall be July 1, 1961.

Approved March 6, 1961.

CHAPTER 177

An Act to Amend Section 4-329 of the Revised Codes of Montana of 1947, Relating to the Right of Licensed Retailers to Sell or Furnish Beer to the Public for Consumption Off the Premises of Such Retailer, by Removing the Limitation on Quantity of Any Such Sale, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 4-329 of the Revised Codes of Montana of 1947, be, and the same is, hereby amended to read as follows:

Retail sale of beer for consumption off premises.

"4-329. (2815.32) **Sale of beer by retailer for consumption off premises.** It shall be lawful for such retailer to sell or furnish beer to the public with intent that such beer shall be taken away from the premises of such retailer for consumption off the premises of such retailer.

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1961.

CHAPTER 178

An Act to Amend Section 32-2145, of the Revised Codes of Montana, 1947, as Amended, Providing for the Further Definition of the Word 'Highway' Wherever it May Appear in the Section by the Insertion of the Words 'State Highway' in Lieu Thereof; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-2145 of the Revised Codes of Montana, 1947, as amended, be and the same is hereby amended to read as follows:

Authority of board to establish state speed zones.

"32-2145. **Establishment of state speed zones.** Whenever the board shall determine upon the basis of an engineering and traffic investigation that any speed is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a *state* highway, said board may determine and declare a reasonable and safe speed limit thereat which when appropriate signs giving notice thereof are erected shall be effective at all times or during hours of daylight or darkness or at such other times as may be determined at such intersections or other place or part of the *state* highway. This act is not in any way to be construed as authority to set a state-wide speed limit."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1961.

CHAPTER 179

An Act to Amend Sections 11-725, 11-726, 11-728, 11-729, and, 11-731 of the Revised Codes of Montana, 1947, as Amended, Pertaining to Salaries and Qualifications of

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Mayors and Aldermen, and Salaries of Police Judges, City and Town Treasurers, City and Town Clerks, and City Attorneys; Providing for Maximum Salaries of Mayors, Police Judges, City Attorneys, and City Clerks in First Class Cities Having Populations in Excess of Fifty Thousand (50,000) Persons and in First Class Cities Having Populations of Between Twenty-five Thousand (25,000) and Fifty Thousand (50,000) Persons, All as Determined by the Last Federal Census; Providing for Maximum Salaries of Mayors and Aldermen, Police Judges, City Attorneys and City Clerks in All First Class Cities Having a Population of Less Than Twenty-five Thousand (25,000) Persons as Determined by the Last Federal Census; Providing for the Maximum Salaries of City and Town Treasurers in All First Class Cities and Providing for the Maximum Salaries of Mayors, Aldermen, Police Judges, City and Town Treasurers, City and Town Clerks, and City Attorneys in All Second Class and Third Class Cities and Towns; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-725 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

Salaries and qualifications of mayor and aldermen.

"11-725. (5019) **Salaries and qualifications of mayor and aldermen.** *The annual salary of a mayor of a city with a population of more than fifty thousand (50,000) persons, according to the last federal census, shall be not more than seven thousand two hundred dollars ($7,200.00); the annual salary of a mayor of a city with a population of not less than twenty-five thousand (25,000) and not more than fifty thousand (50,000) persons, according to the said census, shall be not more than six thousand dollars ($6,000.00);* the annual salary of a mayor of a city of the first class, *having a population of less than twenty-five thousand (25,000) persons, according to said census,* must not exceed five thousand four hundred dollars ($5,400.00); and the annual salary of the mayor of a city of the second class must not exceed *three thousand dollars ($3,000.00);* and the annual salary of the mayor of a city of the third class must not exceed *one thousand five hundred dollars ($1,500.00);* and each alderman in a city of the first class

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may be allowed and paid not exceeding *twelve dollars ($12.00) per diem,* to be fixed by ordinance, *for each day of session held by city council;* and aldermen of cities of the second and third class may be allowed and paid not exceeding *twelve dollars ($12.00)* per diem for each day of session, to be fixed by ordinance, but no alderman *of second and third class cities* shall be paid for more than two (2) days' service during any one (1) month. The council of any town may by ordinance set compensation for a mayor and alderman at *two dollars ($2.00)* per meeting, but in no event shall they be paid to exceed three (3) meetings per month. No person shall be elected to the office of mayor or alderman in any city or town who is not a resident and freeholder within the limits of the city or town."

Amending clause.

Section 2. That section 11-726 of the Revised Codes of Montana, 1947, as amended, be and the same is amended to read as follows:

Salaries of police judges.

"11-726. (5020) **Salaries of police judges.** The annual salary and compensation of police judges must be fixed by ordinance, and in a city of the first class *having a population of more than fifty thousand (50,000) persons according to the last federal census,* must not exceed, for all services rendered *five thousand four hundred dollars ($5,400.00); and in cities of the first class with a population of not less than twenty-five thousand (25,000) and not more than fifty thousand (50,000) persons, according to the last federal census, the annual salary and compensation of police judges must not exceed, for all services rendered, five thousand one hundred dollars ($5,100.00); in all other cities of the first class said salary and compensation must not exceed, for all services rendered, four thousand two hundred dollars ($4,200.00);* and in a city of the second class *said salary and compensation* must not exceed *two thousand one hundred dollars ($2,100.00);* and in a city of the third class *said salary and compensation* must not exceed *one thousand dollars ($1,000.00);* and, in addition, a police judge is entitled to receive in all civil cases the fees which are now or may hereafter be allowed justices of the peace. In all criminal actions or proceedings arising under the criminal laws of the state, when acting as a justice of the peace or committing magistrate, he must receive no compensation whatever; provided, however, that

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none of the provisions of this act shall affect cities operating under the commission form of government."

Section 3. That section 11-728 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows: Amending clause.

"11-728. (5022) **Salary of city treasurer.** The annual salary and compensation of the treasurer must be fixed by ordinance, and must be for all services rendered by such treasurer in any capacity, (except, however, in cases where a city of the third class or a town owns and operates a public utility or utilities and receives revenue therefrom as hereafter in this section provided) and no treasurer must be allowed any percentages or fees in addition thereto. In cities of the first class, the annual salary of the treasurer must not exceed *forty-five hundred dollars ($4,500.00),* in cities of the second class must not exceed *thirty-one hundred dollars ($3,100.00),* and in cities of the third class it must not exceed *fifteen hundred dollars ($1,500.00),* and in towns it must not exceed *twelve hundred dollars ($1,200.00);* provided, however, that where a city of the third class, or a town shall own and operate a public utility or utilities such as water supply, waterworks, gas, lighting system, or utilities similar to the foregoing, and receives the revenue derived therefrom, then the treasurer of such city, or town, may be paid additional salary or compensation to be fixed by ordinance and the duties of the treasurer with reference to the collection and safe-keeping of the revenues derived from such public utilities shall likewise be fixed by ordinance and the amount of such additional salary or compensation shall be in accordance with the additional duties and responsibilities placed upon the treasurer by reason of such public utility or utilities and shall be in such amount as the council may determine." Salary of city treasurer.

Section 4. That section 11-729 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows: Amending clause.

"11-729. (5023) **Salary of city attorney.** The annual salary and compensation of the city attorney must be fixed by ordinance, and must not exceed, in cities of the first class *having a population in excess of fifty thousand (50,000) persons according to the last federal census,* Salary of city attorney.

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fifty-four hundred dollars ($5,400.00), and in cities of the first class having a population of not less than twenty-five thousand (25,000) and not more than fifty thousand (50,000) persons according to the last federal census, the annual salary and compensation must not exceed fifty-one hundred dollars ($5,100.00); and the annual salary and compensation of city attorneys in all other cities of the first class must not exceed four thousand five hundred dollars ($4,500.00), and in cities of the second class must not exceed *three thousand dollars ($3,000.00),* and in cities of the third class must not exceed *one thousand eight hundred dollars ($1,800.00),* which compensation shall be in full for all services rendered in any capacity, and no fee, percentage or additional compensation must be given to or allowed him."

Amending clause.

Section 5. That section 11-731 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

Salary of city or town clerk.

"11-731. (5025) **Salary of city or town clerk.** The annual salary and compensation of the city or town clerk must be fixed by ordinance, and in cities *with a population of more than fifty thousand (50,000) persons, according to the last federal census, shall be not more than six thousand four hundred dollars ($6,400.00); in cities with a population of not less than twenty-five thousand (25,000) and not more than fifty thousand (50,000) persons, according to the last federal census, the annual salary and compensation must not exceed six thousand dollars ($6,000.00); in cities of the first class with a population of less than twenty-five thousand (25,000) persons, according to said census,* must not exceed five thousand four hundred dollars ($5,400.00); in cities of the second class *the annual salary and compensation* must not exceed *four thousand two hundred dollars ($4,200.00).* In cities of the third class the compensation must not exceed *two thousand seven hundred dollars ($2,700.00),* and in towns must not exceed *one thousand eight hundred dollars ($1,800.00);* provided, however, that nothing in this section shall be held or construed as applying to cities and towns operating under the commission form of government."

Repealing clause.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1961.

CHAPTER 180

An Act to Amend Section 32-1615 of the Revised Codes of Montana Relating to the Procurement of Rights of Way and Other Properties; Specifying the Purposes for Which Rights of Way, Easements, Lands or Other Real Property May be Acquired by the State Highway Commission; Authorizing the State Highway Commission to Acquire Rights of Way, Easements, Lands or Other Real Property by Purchase or Exchange; Authorizing the State Highway Commission to Authorize Proceedings in Condemnation for the Acquisition of Rights of Way, Easements, Lands or Other Real Property, Excluding Oil, Gas and Mineral Rights; Providing That the Resolution of the State Highway Commission Shall Create a Disputable Presumption as to the Public Necessity of Highways and Property Required Therefor and As to Proper Planning and Location of State Highways; Providing for the Acquisition of Rights of Way, Easements, Lands or Other Real Property for Present or Reasonably Forseeable Future Highway Needs; Authorizing the State Highway Commission to Lease Unused Portions of Interstate Rights of Way; Providing That Acquisition of Rights of Way by State Highway Commission Includes the Right to Use or Dispose of Gravel or Other Road Building Materials Located Within Such Rights of Way; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing That This Act be in Full Force and Effect From and After Its Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-1615 of the Revised Codes of Montana, 1947, be amended to read as follows:

"Section 32-1615. **Rights of way,** *and other properties,* **how procured.** The state highway commission shall have the power and authority *to lay out, alter, construct, improve and maintain highways in the State of Montana.*

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Authority of state highway commission to acquire land.

Notwithstanding any other provision of law, the state highway commission shall have the power and authority to acquire, by purchase or any other lawful manner, either in fee or in any lesser estate or interest, any lands or other real property, excluding oil, gas and mineral rights, which it deems reasonably necessary for present or future state highway purposes. The acquisition of such lands or real property, or interest therein, for such purposes includes, but is not limited to, that which is deemed reasonably necessary by the state highway commission, for any of the following purposes:

Rights of way.

(a) For rights of way, including those necessary for state highways within cities.

Exchange land.

(b) For the purposes of exchanging the same for other real property to be used for rights of way or other purposes authorized herein, provided that the same shall not be acquired for such a purpose by condemnation procedures.

Deposit of material.

(c) For deposits of road building materials for reasonably forseeable future road building purposes and uses, including rock, gravel, sand or earth; provided however that the right of eminent domain shall not be available for the acquisition of any such deposits of road building materials which may then constitute a component part of an existing private business enterprise.

Buildings and facilities.

(d) For offices, weighing stations, shops or storage yards, buildings, rest areas, informational sites or communication facilities.

Parks.

(e) Parks adjoining or near any state highway, provided that the same shall not be acquired for such a purpose by condemnation procedures.

Trees and shrubs.

(f) For the culture and support of trees or shrubs which benefit any state highway by aiding in the maintenance and preservation of the roadbed.

Drainage.

(g) For drainage in connection with any state highway.

View.

(h) For the maintenance of any unobstructed view of any portion of a state highway so as to promote the safety of the traveling public.

Stock trails.

(i) For the construction and maintenance of stock lanes or trails.

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Irrigation and drainage.

(j) For the construction and maintenance or replacement of private or public irrigation systems, private or public drainage systems, or natural water or drainage courses made necessary by highway construction.

Easements.

(k) For providing land or other real property easements or rights of way for necessary relocation of existing utilities, utility easements or other easements for facilities or purposes then in place, or in effect, upon a proposed right of way.

Proceedings against non-accepting landholders.

Whenever it shall be deemed necessary by the commission to secure *lands or other real property, or rights therein,* as herein provided, and the same cannot be acquired by purchase *at a price or cost which is deemed reasonable by the commission,* the commission may direct the attorney general or any county attorney in any county in the state to procure *the lands or other real property* by proceedings to be instituted in the manner as provided in sections 93-9901 to 93-9926 against all nonaccepting landholders.

Resolution of interest and necessity.

The commission may not so direct the attorney general or any county attorney to procure rights of way, easements, lands or other real property as hereinbefore provided, unless the commission first adopts a resolution declaring that public interest and necessity require the construction or completion by the state, of the highway or improvement, for one of the purposes set forth in this section, and that the rights of way, easements, lands or other real property, or interest therein, described in such resolution and sought to be condemned is necessary for the improvement and that the same is planned and located in a manner which will be most compatible with the greatest public good and the least private injury.

Presumption.

Such resolution of the commission shall create and establish a disputable presumption of the public necessity of such proposed public improvement; that the taking of such rights of way, easements, lands or other real property or interest therein, and the amount thereof, is necessary therefor; and that the proposed public improvement is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

Whole parcel may be acquired—when.

Whenever a part of a parcel of land or other real property is to be taken for state highway purposes and the re-

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mainder is to be left in such shape or condition as to be of little market value or to give rise to claims or litigation concerning severance or other damage, the state highway commission may acquire the whole parcel and sell the remainder or exchange the same for other property needed for state highway purposes.

Authority to lease unused land.

The authority conferred by this chapter to acquire rights of way, easements, lands or other real property and interest therein for state highway purposes includes authority to acquire for reasonably forseeable future needs. The state highway commission is authorized to lease unused portions of any lands which are held for state highway purposes and interstate rights of way which are not presently needed for highway purposes on such terms and conditions as the state highway commission may fix and to maintain and care for such property in order to secure rent therefrom. All rent so received shall be deposited in the state highway fund.

Disposition of rent.

Rights included in acquisition.

The acquisition of any right of way or easement by the state highway commission for construction, operation, repair, re-construction, or maintenance of state highways shall include, among other rights, the right to use, remove, re-locate, re-distribute or otherwise dispose of any and all gravel or other road building materials, found or located within the boundaries of such rights of way or easements and such gravel or materials shall be deemed real property for the purposes of this act.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1961.

CHAPTER 181

An Act to Amend Section 68-1316 of Replacement Volume 4, Revised Codes of Montana, 1947, Authorizing State Employees Paid Either Fully or in Part From Federal Funds, and Not Subject to the Federal Retirement System, to Become Members of the Public Em-

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ployees' Retirement System of the State of Montana; Providing All Employees of the Montana Army and Air National Guard to Become Members on the First Day of Employment Except Employees in State Service on July 1, 1961, or Prior Thereto Who Have Filed an Election Not to Become Members; Providing That Employees Who Have Filed Their Election Not to Become Members May Become Members at Any Time While an Employee by Filing an Election to Become a Member and Receive Credit for Prior Service Under the Provisions of Section 68-501 (h), Revised Codes of Montana, 1947, as Amended by Chapter 92, Session Laws of 1955; Providing for an Effective Date of This Act; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 68-1316 of Replacement Volume 4, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

State employees paid from federal funds—rights under retirement system.

"68-1316. **State employees paid from federal funds.** *(a)* A state employee whose compensation is paid either fully or in part from federal funds, but who is not subject to the federal retirement system, shall be entitled to all beneftis and be required to make all employee contributions under the public employees' retirement system of the State of Montana, based upon the full salary received by such employee, including that portion of salary paid from federal funds.

Election as to membership.

"(b) From and after July 1, 1961, all employees of the Montana army and air national guard shall become members on the first day of employment, except those employees who are in state service on July 1, 1961, or prior thereto, who have filed with the board of administration an election not to become members, provided any person so excluded from membership by his own election may at any time, while he is an employee, file with the board of administration an election to become a member and receive credit for prior service under the provisions of section 68-501 (h), replacement volume 4, Revised Codes of Montana, 1947, as amended by chapter 92, session laws of 1955, of this act."

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

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Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1961.

CHAPTER 182

An Act Providing That When the State Highway Commission Constructs a Highway Through an Irrigation Project or District and Acquires Under Eminent Domain, or Otherwise, Irrigable Land for Highway Purposes, or Acquires Land for Such Purposes Which Acquisition Renders Other Irrigable Land Unusable for Irrigation, the State Highway Commission Shall Pay to the Owner of the Irrigation or Drainage Project, or to the Irrigation or Drainage District, a Proportionate Share of the Unpaid Construction Costs, If Any, for the Irrigable Land So Acquired, or Such Irrigable Land Rendered Unusable for Irrigation; and Providing An Effective Date for the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

State highway commission to pay share of construction costs of irrigation projects—when.

Section 1. Whenever the state highway commission constructs a highway through an irrigation or drainage project or district and acquires under eminent domain, or otherwise, irrigable land for highway purposes, or so acquires land for such purposes which acquisition renders other irrigable land unusable for irrigation, the state highway commission shall pay to the owner of the irrigation or drainage project, or to the irrigation or drainage district in addition to any other sums allowed by law, a proportionate share of the unpaid construction costs of the project or the district, if any, for the irrigable land so acquired, or such irrigable land rendered unusable for irrigation.

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1961.

CHAPTER 183

An Act to Create Regulations for the Awarding of Contracts by the State of Montana, Agencies Thereof, Poli-

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tical Subdivisions Thereof, School Districts and Other Public Corporations; Providing for Preference for Montana Residents and for Products Manufactured and Produced in This State; Defining the Word 'Resident'; Providing Penalties and Repealing All Acts and Parts of Acts in Conflict Herewith; Containing a Severability Clause and An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

State contracts—duty to award.

Section 1. In order to provide for an orderly administration of the business of the State of Montana in awarding contracts for materials, supplies, equipment, construction, repair and public works of all kinds, it shall be the duty of each board, commission, officer or individual charged by law with the responsibility for the execution of the contract on behalf of the state, board, commission, political subdivision, agency, school district or public corporation of the State of Montana, to award such contract to the lowest responsible bidder who is a resident of the State of Montana and whose bid is not more than two per cent (2%) higher than that of the lowest responsible bidder who is a non-resident of this state. This requirement shall prevail whether the law required advertisement for bids or does not require advertisement for bids.

"Resident" defined.

Section 2. For the purpose of this act the word "resident" shall include actual residence of an individual within this state for a period of more than one (1) year immediately prior to bidding; in a partnership enterprise or an association, the majority of all partners or association members shall have been actual residents of the State of Montana for more than one (1) year immediately prior to bidding; domestic corporations organized under the laws of the State of Montana are prima facie eligible to bid as residents but this qualification may be set aside and a successful bid disallowed where it is shown to the satisfaction of the board, commission, officer or individual charged with the responsibility for the execution of such contract that said corporation is (a) composed of resident organizers or directors of this state who have no substantial interest or investment in the corporation for which they are acting and that the ownership and control of said company is vested in non-residents; (b) that the Montana corporation is a wholly-owned subsidiary of a foreign corporation; (c) that said corporation was formed for

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the purpose of circumventing the provisions of this act relating to residence.

Contracts to provide for use of Montana products.

Section 3. Each contract awarded by any political subdivision, school district, public corporation or agency of the State of Montana shall contain among its provisions a requirement that in all instances products manufactured or produced in this state by Montana industry and labor shall be preferred for use in all projects and in all materials, supplies and equipment, if such products, materials, equipment and supplies are comparable in price and quality. Further, in this connection, it is the intent of this act that wherever possible products manufactured and produced in this state which are suitable substitutes for products manufactured or produced outside the state and comparable in price, quality and performance, shall be preferred for use in all projects and in all state institutions.

Effect of violation.

Failure to comply with the law in this respect shall disqualify such contractor as a qualified bidder for future contracts with the State of Montana, any legal subdivision of the State of Montana, any school district, public corporation or agency for a period of two (2) years.

No preference shall be given on contracts where federal aid is obtained from any bureau or department of the United States except as provided for by the laws of the United States, nor shall the provisions of section 82-1157, Revised Codes of Montana, 1947, be amended or repealed by this act.

Severability clause.

Section 4. If any section, subsection, sentence, phrase or clause of this act is for any reason held to be unconstitutional or invalid, such declaration shall not effect the validity of the remaining portions of this act.

Repealing clause.

Section 5. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act shall take effect and be in full force from and after its passage and approval.

Approved March 6, 1961.

CHAPTER 184

An Act to Delete Obsolete References in the Revised Codes of Montana, 1947, Relating to State Mortgage Lands

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and Farm Mortgage Loans by Amending Sections 81-902, 81-909, 81-910, 81-912, 81-1701 and 81-102, Revised Codes of Montana, 1947, and Section 81-908, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 95, Session Laws of Montana, 1949, and As Amended by Section 1, Chapter 10, Session Laws of Montana, 1959, and by Repealing Sections 81-911, 81-914, 81-1901, 81-1902, 75-3730, 75-3731, 75-3732, 75-3733, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 81-902, Revised Codes of Montana, 1947, is hereby amended to read as follows: Amending clause.

"81-902. (1805.65) **Mineral reservations in state lands.** All coal, oil, oil shale, gas, phosphate, sodium and other mineral deposits, except sand, gravel, building stone and brick clay, in lands belonging to the State of Montana, or which may hereafter become the property of the state, which have not already been reserved by the United States, are hereby reserved to the state. All such deposits are reserved from sale except upon a rental and royalty basis as provided by law. In the case of lands sold after this act takes effect, a purchaser of any lands belonging to the state or which may hereafter become the property of the state shall acquire no right, title, or interest in or to any of such deposits. The state also reserves for itself and its lessees the right to enter upon to prospect for, develop, mine and remove such deposits and to occupy and use so much of the surface of the said lands as may be required for all purposes reasonably extending to the exploring for, mining and removal of such deposits therefrom, but the lessee shall make just payment to the purchaser for all damage done by reason of such entry upon the land and the use and occupancy of the surface thereof."

Mineral reservations in state lands.

Rental and royalty. Mineral rights reserved to state.

Right of entry reserved.

Section 2. That section 81-908, Revised Codes of Montana, 1947, as amended by section 1, chapter 95, session laws of Montana, 1949, and as amended by section 1, chapter 10, session laws of Montana, 1959, be, and the same is hereby amended to read as follows: Amending clause.

"81-908. (1805.71) **Who may purchase and how much.** State lands shall be sold only to citizens of the United States or to persons who have declared their intentions

Qualifications—purchasers of state lands.

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Amount of land limited.

to become citizens, or to corporations organized under the laws of this state. No person shall be qualified to purchase state land who has not reached the age of twenty-one (21) years. As far as possible to determine the lands shall be sold only to actual settlers or to persons who will improve the same, and not to persons who are likely to hold such lands for speculative purposes intending to resell the same at a higher price without having added anything to their value. No person or corporation shall be entitled to purchase more than one section of state land, and this area shall not include more than one hundred and sixty (160) acres of land susceptible of irrigation. These limitations as to area and irrigableness shall not apply to lands within a federal irrigation project wherein the Congress of the United States of America now or hereafter authorizes water to be furnished to an area exceeding one hundred and sixty (160) irrigable acres.

"State lands may be sold to any sovereign state of the United States or to any board of trustees or public corporation or agency of such state created by such state as an agency or political subdivision thereof. Said lands may be purchased in the quantities set forth in this section for use by such state, board of trustees, public corporation, agency, or political subdivision for educational or scientific purposes.

Ratification of title.

"The title to any state lands which have been heretofore purchased by a sovereign state or board of trustees or public corporation, agency or political subdivision thereof qualified under the provisions of this act is hereby ratified and confirmed."

Amending clause.

Section 3. That section 81-909, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

All sales of state land at public auction.

"81-909. (1805.72) **Sale at public auction, where held.** All sales of state lands shall be only at public auction held at the county court house of the county in which the lands are located; provided, however, that in case no suitable room can be found in such court house at the time for holding the sale, then the sale may be transferred to a more convenient place within a reasonable distance of such court house by public announcement made at the court house at the time fixed for beginning the sale."

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Amending clause.

Section 4. That section 81-910, Revised Codes of Montana, 1947, is, hereby amended to read as follows:

Notice of sale by publication.

"81-910. (1805.73) **Notice of sale.** The commissioner shall cause notice of every such sale to be given by publication in the official county paper of the county where the sale is to be held once each week through four consecutive weeks next preceding the date of sale. Such notice, shall give the day, date and time of day of the beginning of the sale; shall contain a list of all the tracts to be offered for sale showing the township and range in which they are located, describing the same with reference to section number and subdivision of the section, or with reference to block and lot if surveyed, the number of acres in unplatted lands and the appraised value per acre and also the appraised value of each lot. As a general rule non-irrigable farming lands shall be listed in quarter sections; grazing lands may be listed in larger tracts not exceeding one (1) section.

"For the convenience of the bidders, the commissioner may assign the tracts advertised a consecutive series of sales numbers and show the sales number of each tract in the notice of sale.

"The notice shall also give the terms and conditions of sale, and such additional information as the commissioner may deem useful."

Amending clause.

Section 5. That section 81-912, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Regulations of sales.

"81-912. (1805.75) **Regulations concerning sale—Forfeiture for nonpayment — Disposition of proceeds.** At the time fixed for the sale, the lands shall be offered for sale at auction, in the order they appear in the notice of sale under the personal direction of the commissioner or the assistant commissioner, one of whom shall be present at the sale, and sold to the highest qualified bidder under the following restrictions: No lands shall be sold for less than the appraised value; tillable lands capable of producing agricultural crops shall not be sold for less than ten dollars ($10.00) per acre, and lands principally valuable for grazing purposes shall not be sold for less than five dollars ($5.00) per acre.

Lessee has preference.

"It is further provided that the lessee of the land need not make a higher bid than others, but shall if bidding

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an equal amount be given the preference. The lands shall be sold as nearly as practicable according to the subdivisions in which they are advertised, and care shall be taken not to subdivide any tract in such a way as to separate remaining portions from a water supply or from section lines or public highways. The sale may be adjourned from day to day until all the lands advertised have been offered for sale.

Forfeiture for nonpayment.

"If any successful bidder at such sale refuses or neglects to make the initial payment required to be made on the land purchased by him, he shall forfeit to the state not less than fifty dollars ($50.00) nor more than one thousand dollars ($1000.00) to be determined by the state board of land commissioners according to the circumstances of the case. If such forfeiture is not paid when notice of the amount of the forfeiture has been served by the commissioner, the attorney general shall institute a suit for the recovery thereof in the name of the State of Montana.

Disposition of proceeds of sales.

"The proceeds from the lands sold, including all subsequent payments on the principal, shall be credited to the permanent fund arising from the grant to which it belongs and shall become and forever remain an inseparable and inviolable part thereof. All payments on interest shall be credited to the proper income fund and shall be available for use as provided by law."

Amending clause.

Section 6. That section 81-1701, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Authority given state board of land commissioners to lease state lands— oil and gas leases.

"81-1701. (1882.1) **State oil and gas leases — Reservations — Royalty — Waste.** The state board of land commissioners is hereby authorized and empowered to lease in such manner as it may determine, not inconsistent with the enabling act and the constitution, any state lands to which the title has vested in the state and in which the oil and gas rights are not reserved by the United States, for prospecting and exploring for oil and gas, mining, drilling, developing and removing the same upon the terms and conditions herein prescribed, to any person, association, corporation, domestic or foreign, or municipality qualified under the constitution and the laws of the State of Montana. This power and authority to lease state lands for such purposes

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shall extend to and include all lands owned by the state under navigable lakes and streams, and shall also extend to and include all those state lands which have been sold but in which the oil and gas rights have been reserved by the State of Montana; but in such cases and in all cases where the lands are under lease for grazing, agriculture or similar purposes, care shall be taken in issuing the oil and gas leases to protect the rights of the purchaser or lessee.

Reservation of right to sell surface.

"In every oil and gas lease granted pursuant to the terms hereof there shall be reserved unto the State of Montana the right to sell, lease, or otherwise dispose of the surface of the lands covered thereby, subject always to the rights and privileges granted unto the lessee under such oil and gas lease.

Leases to provide against waste.

"Oil and gas leases issued under the provisions of this act shall all be subject to the conditions that the lessee in conducting his explorations and mining or drilling operations shall use all reasonable precautions to prevent waste of oil or gas developed in the land or the entrance of water through wells drilled by him to the oil or gas sands or oil or gas bearing strata to the destruction or injury of the oil or gas deposits. Violations of any of these conditions shall constitute grounds for the forfeiture of the lease after hearing had thereon before the state board of land commissioners."

Amending clause.

Section 7. That section 81-102, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"Section 81-102. (1805.2) **Definitions.** In this act, the term 'department' shall mean the department of state lands and investments; the term 'board' shall mean the state board of land commissioners; the term 'commissioner' shall mean the commissioner of state lands and investments; the term 'assistant commissioner' shall mean the assistant commissioner of state lands and investments; the term 'state land' or 'lands' shall mean and include all lands that have heretofore been granted and that hereafter may be granted to the state by the United States for educational purposes or for any other purpose, either directly or through exchange for other lands; all lands that have become the property of the state through deed or

"Department."

"Board."

"Commissioner."

"Assistant commissioner."

"State land" or "lands."

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devise from any person; and all lands that have become the property of the state through the operation of law, except, however, such of these lands as the state has sold and conveyed through the issuance of patent; and except also lands that are used as building sites, campus grounds, or for experimental purposes by any of the state institutions, and have become the property of such institutions."

Repealing clause.

Section 8. That sections 81-911, 81-914, 81-1901, 81-1902, 75-3730, 75-3731, 75-3732, 75-3733, Revised Codes of Montana, 1947, are hereby expressly repealed.

Approved March 6, 1961.

CHAPTER 185

An Act to Amend Section 66-2401, Revised Codes of Montana, 1947, Relating to Plumbers in Cities and Towns of More Than 1,000 Inhabitants to Require Licensing of Plumbers in Certain Other Cases and to Provide Exceptions Thereto; to Amend Section 66-2403, Revised Codes of Montana, 1947, as Amended by Chapter 251, Laws of Montana, 1959, Relating to Board of Plumbing Examiners and Compensation of Board Members by Eliminating the Director of the Division of Sanitary Engineering of the Montana State Board of Health or His Duly Designated Representative and Substituting Therefor the Duly Appointed Representative of the Montana State Board of Health Who Shall be a Sanitary Engineer and Who Shall be a Member and Secretary of the State Board of Plumbing Examiners and by Increasing the Compensation for Members of the Board From Ten Dollars Per Diem to Twenty Dollars Per Diem; to Amend Section 66-2405, Revised Codes of Montana, 1947, to Require Master Plumbers to Deposit With the Board a Bond in the Amount of Five Thousand Dollars ($5,000.00); to Amend Section 66-2411, Revised Codes of Montana, 1947, Relating to Penalty for Violation by Plumbers in Cities and Towns of More Than 1,000 Inhabitants to Provide Penalty for Violation by Plumbers in Certain Other Cases and to Provide Exceptions Thereto; and Containing a Saving Clause.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 66-2401, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"66-2401. **Plumbers — License required** — *Exception.* Any person working at the business of plumbing, in any incorporated city or town in this state, either as a master plumber or as a journeyman plumber, *or who, while working at the business of plumbing, shall connect plumbing to or disconnect plumbing from, a water or sewer system of such a city or town, which serves the public,* shall first secure a state license as hereinafter provided. *Provided that the council or commission of any city or town, in cases where a duly licensed person is not reasonably available, may, by ordinance duly adopted, and upon reasonable notice to the board of plumbing examiners, authorize the practice of the business of plumbing by persons who have not obtained the state licenses as hereinafter provided until such time as a duly licensed person is reasonably available.*" Plumber's license required. Exception.

Section 2. That section 66-2403, Revised Codes of Montana, 1947, as amended by chapter 251, laws of Montana, 1959, be and the same is hereby amended to read as follows: Amending clause.

"66-2403. **Board of plumbing examiners — Appointment — Terms — Compensation — Examination of applicants.** Within sixty days after this act becomes a law, the governor of the State of Montana shall appoint a board of plumbing examiners consisting of five members — one master plumber, one journeyman plumber, who shall be of legal age, residents of Montana for more than one year and shall have been at least five out of the last eight years, immediately preceding their appointment, duly licensed master or journeyman plumbers, one registered professional engineer, qualified in mechanical engineering, one member to be appointed at large as representative of the public who is not engaged in the business of installing or selling plumbing equipment, and the *appointed representative of the Montana state board of health, who shall be a sanitary engineer and who shall be the secretary of the state board of plumbing examiners.* The office of the *engineer* of the state board of health shall act as the office through which all business of the board shall be transacted. The appointed members of this board of plumbing Governor shall appoint board of plumbing examiners— qualifications. Business offices.

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Term of office.

examiners shall serve for a period of four years from the date of their appointment, providing however, the first board of plumbing examiners shall serve as follows: one member for one year, one member for two years, one member for three years and one member for four years and the governor in making the appointment shall designate the time that each member constituting the first board shall serve. Thereafter, upon the expiration of the term of office of each member of the board of plumbing examiners or when a vacancy occurs, the governor shall make a new appointment for the unexpired term or for a period of four years. The journeyman plumber whose term would next expire after the passage and approval of this act is hereby removed from said board and in his place and stead shall be installed said registered professional engineer, qualified in mechanical engineering. The members of the said board shall be entitled to a compensation of *twenty* dollars per diem, each, for each and every day while actually engaged in the work of the board, the compensation, however, to be paid from the revenue realized under the provisions of this act, but not otherwise. Any applicant for a state license to work at the business of plumbing in this state shall be examined as to his qualifications by the board of examiners of plumbers for the State of Montana. It shall be the duty of the said board to examine each applicant for a state license as provided for in this act, to determine his qualifications and fitness for carrying on the business of a master plumber or journeyman plumber, and if the applicant successfully passes the examination as prescribed by the said board, then a state license shall be issued to such applicant for such license, authorizing him to engage in the business and occupation of a master plumber or journeyman plumber, as the case may be, which license, when issued, shall authorize the holder thereof to carry on the business of a master plumber or a journeyman plumber, as the case may be, in any city or town in the State of Montana."

Vacancies.

Compensation.

Examination of applicants for plumber's license.

Issue of license.

Amending clause.

Section 3. That section 66-2405, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Fee for examination.

"66-2405. **Examination fee — Expiration of license — Annual renewal — Fees** — *Bond required of master plumbers.* No applicant for a master plumber's license shall be

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entitled to submit to the examinations prescribed by the said board of plumbing examiners until he shall have deposited with the secretary of the said board the sum of twenty-five dollars as an examination fee, and no applicant for a journeymen plumber's license shall be entitled to submit to the examination prescribed by the said board of plumbing examiners until he shall have deposited with the secretary of said board the sum of ten dollars as an examination fee. Each state license when issued shall expire one year from the date of its issuance, and shall have no force or effect after the expiration of one year after the date of its issuance. Any state license, however, issued to a master plumber or a journeyman plumber shall be renewed annually, without examination, at any time prior to its expiration, by a written request for its renewal, directed to the secretary of the said board of plumbing examiners, and the payment of the sum of ten dollars for a renewal of a master plumber's license, and the sum of five dollars for a journeyman plumber's license, and any such renewal shall also be for the period of one year. *After July 1, 1961, no master plumber's license shall be issued or renewed unless and until the applicant therefor shall have deposited with the board a good and sufficient bond to be approved by the board, or cash in lieu thereof, in the amount of five thousand dollars ($5,000.00) to insure the faithful performance of his duties arising out of the provisions of the state plumbing code or the provisions of chapter 24, title 66, Revised Codes of Montana.*"

License period.

Renewal and fee.

Bond required.

Section 4. That section 66-2411, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"66-2411. **Penalty for violations — Exceptions from act.** Any person working at the business of plumbing or maintaining or conducting a plumbing shop in any incorporated city or town in this state, *or who, while working at the business of plumbing, shall connect plumbing to or disconnect plumbing from, a water or sewer system of such a city or town, which serves the public, in violation of* any provisions of this act, *or at a time when he is not exempt from the provisions of this act pursuant to the provisions of a duly enacted and subsisting ordinance of such city or town* shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent

Penalties for violations.

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jurisdiction, shall be punished by a fine of not less than ten dollars and not more than one hundred dollars for each separate offense; provided, however, that this act shall not be construed to apply to, or affect, plumbing or pipefitting in any smelter, mine, railroad or manufacturing industry, *and that nothing herein shall be construed to affect article VI of the State of Montana plumbing code, rules and regulations.*"

Severability clause.

Section 5. The provisions of this act shall be severable and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

Approved March 6, 1961.

CHAPTER 186

An Act to Amend Sections 32-1018, 32-1019 and 32-1020 of the Revised Codes of Montana of 1947, as Enacted by Sections 1, 2 and 3 of Chapter 95, Laws of 1951, to Define the Crime of Using the National System of Interstate and Defense Highways and State Highways as a Place for the Grazing or Running of Livestock, Providing for Exceptions and Providing a Penalty for the Violation Thereof, Providing No Presumption or Inference of Negligence Shall Arise Because of a Collision, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-1018, of the Revised Codes of Montana of 1947, as enacted by section 1, chapter 95, laws of 1951, be and the same is hereby amended to read as follows:

Unlawful to graze livestock on highway.

"32-1018. **Grazing livestock on highway unlawful.** *No person who owns or is entitled to the possession of any livestock, shall wilfully permit any such livestock to graze, remain upon or occupy any part of the right-of-way of any state highway running through cultivated areas, or any part of the fenced right-of-way of any state highway, which in either case has been designated by agreement between*

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the state highway commission and the secretary of commerce as a part of the national system of interstate and defense highways; or any state highway, designated by agreement between the state highway commission and the secretary of commerce as a part of the federal-aid primary system except as hereinafter provided.''

Amending clause.

Section 2. That section 32-1019, Revised Codes of Montana of 1947, as enacted by section 2, chapter 95, laws of 1951, be and the same is hereby amended to read as follows:

Exceptions.

''32-1019. *Exclusions* **from preceding section.** This act shall not apply, *as follows:*

''(1) To livestock on state highways in charge of one or more herders.

''(2) To such parts of fenced highways adjacent to open range where no highway device has been installed to exclude range livestock therefrom.

''(3) To such parts of any state highway, a part of the federal-aid primary system, as the state highway commission may designate as being impracticable to exclude livestock. Such portions of the highway shall be marked by proper signs in accordance with the state highway commission's manual and specifications for a uniform system of traffic-control devices.''

Amending clause.

Section 3. That section 32-1020, Revised Codes of Montana, 1947, as enacted by section 3, chapter 95, laws of 1951, be and the same is hereby amended to read as follows:

Penalty for violation.

''32-1020. **Penalty for violating act.** Any person violating the terms of this act shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than five dollars ($5.00), nor more than one hundred dollars ($100.00), for each offense. *In any civil action brought by the owner, driver or occupant of a motor vehicle, or by their personal representatives or assigns, or by the owner of livestock, for damages caused by collision between any motor vehicle and any domestic animal or animals on a highway, there is no presumption or inference that such collision was due to negligence on the part of the owner or the person in possession of such livestock, or the driver or owner of the vehicle.''*

Civil actions.

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Repealing clause.

Section 4. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1961.

CHAPTER 187

An Act to Amend Section 93-303, Revised Codes of Montana, 1947, as Amended by Chapter 84, Session Laws of Montana, 1951, and as Further Amended by Chapter 247, Session Laws of Montana, 1955, and as Further Amended by Chapter 198, Session Laws of Montana, 1959, Setting the Annual Salary of District Judges at Ten Thousand Seven Hundred Dollars ($10,700.00), and to Amend Chapter 202, Session Laws of Montana, 1959, Designated as Sections 25-501 and 25-501.1 in the 1959 Cumulative Pocket Supplement of Replacement Volume 2, Revised Codes of Montana, 1947, Relating to Annual Salaries of Various Elected Officials and Administrative Heads, Whatever Title They May Have, of Various Boards, Bureaus and Commissions; Defining the Scope of Salaries, But That Such Scope Shall Not Limit Certain Longevity Pay; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-303, Revised Codes of Montana, 1947, as amended by chapter 84, session laws of Montana, 1951, and as further amended by chapter 247, session laws of Montana, 1955, and as further amended by chapter 198, session laws of Montana, 1959, be, and the same is hereby amended to read as follows:

Salaries—district judges.

"93-303. (8814) **Salaries of district judges.** The annual salary of each district judge shall be *ten thousand seven hundred dollars ($10,700.00).*"

Amending clause.

Section 2. That chapter 202, session laws of Montana, 1959, designated as sections 25-501 and 25-501.1 in the 1959 cumulative pocket supplement of replacement volume 2, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Salaries—elected state officials.

"25-501. **Salaries of elected state officials.** The annual salaries paid to the various elected officials of the State of Montana shall be as follows:

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Governor	$14,000.00
Chief justice of the supreme court	*12,700.00*
Justices of the supreme court, each	*12,700.00*
Attorney general	9,500.00
State auditor	8,000.00
Superintendent of public instruction	8,500.00
Railroad commissioner	8,000.00
State treasurer	8,000.00
Secretary of state	8,000.00
Clerk of the supreme court	6,500.00''

Salary for all services—except expenses.

''25-501.1. **Salary to be for all services.** The salary of each such officer shall be for all services required of him or which may hereafter devolve upon him by law, including all services rendered ex officio as a member of any board, commission or committee, but shall not include actual necessary traveling, lodging and subsistence expenses incidental to his official duties; provided, however, that this provision shall not apply to the salary of the supervisor of the highway patrol so as to deprive him of his length-of-service salary increase as provided by section 31-105 of these codes.''

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby expressly repealed.

Approved March 6, 1961.

CHAPTER 188

An Act to Amend Section 66-505, Revised Codes of Montana, 1947, as Last Amended by Chapter 178, Laws of 1955, and Sections 66-510, 66-512, 66-513 and 66-515, Revised Codes of Montana, 1947, Relating to Fees for Application to Practice Chiropractic, Fees for Restoration of License, Fees for Renewal of License, Per Diem and Mileage, Fees for Reciprocal License, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-505, Revised Codes of Montana, 1947, as last amended by chapter 178, laws of 1955, be, and the same is hereby amended to read as follows:

''66-505. (3142) **Applications to practice — fees for**

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Application to practice chiropractic.

license. Any person wishing to practice chiropractic in this state after March 15, 1951, shall make application to said board of chiropractic examiners through the secretary-treasurer thereof, and upon such form and in such manner as may be prescribed and directed by the board, at least fifteen (15) days prior to any meeting of said board. Each applicant shall be a graduate of a college of chiropractic approved by said board of chiropractic examiners in which he shall have attended a course of study of four (4) school years of not less than nine (9) months each, and after March 15, 1959, shall present evidence showing completion of two (2) full academic years of college or university work from an institution acceptable to the Montana state board of education; provided, however, that those who are now duly licensed to practice chiropractic under the laws of the State of Montana shall not be affected by this provision. Application shall be made in writing and shall be sworn to by some officer authorized to administer oaths, and shall recite the history of applicant's educational qualifications, and how long he has studied chiropractic, of what school or college he is a graduate, and the length of time he has been engaged in practice, accompanying the same with proofs thereof, in the shape of diplomas, certificates, etc., and shall accompany said application with satisfactory evidence of good character and reputation.

Qualifications.

License fees.

"There shall be paid to the secretary-treasurer of the state board of chiropractic examiners, by each applicant for a license, a fee of *fifty dollars ($50.00), twenty-five dollars ($25.00)* of which shall accompany the application and *the remainder, twenty-five ($25.00)* shall be paid upon the issuance of license. Like fees shall be paid for any subsequent examination and application."

Amending clause.

Section 2. That section 66-510, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Refusal or revocation of license for cause.

"66-510. (3147) **Refusal and revocation of license — Proceedings — Reinstatement.** The state board of chiropractic examiners may refuse to grant or revoke a license to practice chiropractic in this state, or may cause a licentiate's name to be removed from the records in the office of the recorder of deeds in this state upon any of the following grounds, to-wit: The employment of fraud or

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deception in applying for a license or in passing an examination provided for in this act; the practice of chiropractic under a false or assumed name or the impersonation of another practitioner of like or different name; the conviction of a crime involving moral turpitude; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate him or her for the performance of their professional duties. Any person who is a licentiate, or who is an applicant for a license to practice chiropractic, against whom any of the foregoing grounds for revoking or refusing a license is presented to said board with a view of having the board revoke or refuse to grant a license, shall be furnished with copy of the complaint, and shall have a hearing before said board in person or by attorney, and witnesses may be examined by said board respecting the guilt or innocence of said accused.

Hearing.

"Said board may at any time within two years of the refusal, revocation, or cancellation of registration under this section, by a majority vote, issue a new license or grant a license to the person affected, restoring him to or conferring upon him all the rights and privileges of, and pertaining to the practice of chiropractic as defined and regulated by this act. Any person to whom such rights and privileges have been restored shall pay to the secretary-treasurer the sum of *fifty dollars ($50.00)* upon issuance of a new license."

Restored license—fee.

Section 3. That section 66-512, Revised Codes of Montana, 1947, be, and the same is, hereby amended to read as follows:

Amending clause.

"66-512. (3149) **Renewal.** One of the purposes of this act is to require each licensee to keep abreast of and informed about the developments and advances in the science of chiropractic, and, therefore, each license shall expire on the first day of September in each year, and shall be renewed then or thereafter, by the board, upon payment of a renewal fee of not less than five dollars ($5.00) nor more than *fifteen dollars ($15.00)* as set by the state board of chiropractic examiners, and the presentation of evidence satisfactory to said board that the licensee, in the year preceding the application for renewal, attended at least one of the two-day educational programs as conducted by the Montana chiropractic association; provided, that the board may grant renewals, but not con-

Renewal—fee—qualification.

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secutive renewals, upon a showing satisfactory to said board that attendance upon said educational programs was unavoidably prevented, provided that new licensees during the six (6) months preceding said September first, by examination, shall be granted renewal licenses without attending said educational programs, provided, that a failure to renew a license shall not prevent a licensee from subsequently applying for and receiving a license, as if there were no lapse of time between the expiration of the old license, and the granting of a renewal license; provided, that nothing herein shall prevent a renewal of said license if in said preceding year for any reason, at least one of the said educational programs is not conducted in the State of Montana."

Amending clause.

Section 4. That section 66-513, Revised Codes of Montana, 1947, be, and the same is, hereby amended to read as follows:

Disposition of fees—special fund.

"66-513. (3150) **Disposition of fees — Receipts and disbursements — Per diem and mileage.** All examinations and renewal fees received by the state board of chiropractic examiners under this act shall be paid to the secretary-treasurer of said board, who shall at the end of each month deposit the same with the state treasurer, and the said state treasurer shall place said money so received in a special fund of the state board of chiropractic examiners and shall pay the same out in warrants drawn by the auditor of the state thereof, upon vouchers issued and signed by the president and the secretary-treasurer of said board. Said money so received and placed in said fund may be used by the state board of chiropractic examiners in defraying their expenses in carrying out the provisions of this act.

Annual report to governor.

"The secretary-treasurer shall keep a true and accurate account of all funds received and all vouchers issued by the board; and on the first day of December of each year he shall file with the governor of the state a report of all receipts and disbursements and the proceedings of said board for the fiscal year.

Per diem and mileage.

"The members of said board shall receive a per diem of *twenty-five* dollars for each day during which they shall be actually engaged in the discharge of their duties, and mileage at the rate of *ten* cents per mile for each mile

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necessarily traveled in going to and from any meeting of said board.

"Such per diem and mileage and such other incidental expenses necessarily connected with said board shall be paid out of the fund of the state board of chiropractic examiners, and not otherwise."

Section 5. That section 66-515, Revised Codes of Montana, 1947, be, and the same is, hereby amended to read as follows: Amending clause.

"66-515. (3152) **Admission to practice of persons from other states.** Persons licensed to practice chiropractic under the laws of any other state having chiropractic educational requirements equal to this act, may, in the discretion of the board, be issued a license to practice in this state without examination, upon payment of the fee of *fifty dollars ($50.00)* as herein provided." Admission of non-resident practitioners. Fee.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 7, 1961.

CHAPTER 189

An Act to Amend Section 82-1511 of the Revised Codes of Montana, 1947, Pertaining to the Hail Insurance Fund by Providing for Reimbursements to the Counties and State.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 82-1511, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"82-1511. (355) The state treasurer shall receive all moneys paid to him under this act and shall place same to the credit of a fund to be known as the state hail insurance fund and may from time to time transfer to the hail insurance administrative fund such sums as the state board may deem necessary and proper to pay the expenses of administration together with such sums as may be needed to pay all the warrants registered against the hail insurance administrative fund, plus the accrued interest Disposition of state hail insurance fund. Transfer to hail insurance administrative fund.

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thereon, and shall pay out of such funds on warrants drawn by the state auditor by order of the state board of hail insurance. If such warrants be presented and there be no money in the said funds to pay the same, such warrants shall be registered and thereafter bear interest at the rate of four per cent (4%) per annum until called for payment by the state treasurer. All interest and earnings obtained by the state treasurer for such moneys shall be credited to the respective funds. If at any time more funds are in the administrative fund than the board estimates are needed for the purposes mentioned above, the state treasurer may on the order of the state board of hail insurance transfer such funds back to the hail insurance fund as the state board may direct.

Payment to counties.

"Upon warrants drawn by the state auditor by order of the state board of hail insurance the state treasurer shall pay out of the hail insurance fund to the county treasurer of each county where state hail insurance coverage is in force one percent (1%) of the gross annual levies made and collected in such county under the hail insurance act for the use of the county as the board of county commissioners may determine.

Payment to state general fund.

"Upon authorization from the state board of hail insurance the state treasurer shall transfer out of the state hail insurance fund to the general fund of the State of Montana two percent (2%) of the gross annual levies made and collected in the State of Montana."

Approved March 7, 1961.

CHAPTER 190

An Act to Amend Section 11-3518, Revised Codes of Montana, 1947, to Provide for Protection of Tenure and Police Reserve Fund Rights for Police Officers in Cities and Towns Which Become Merged Into Consolidated County Municipalities.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-3518 of the Revised Codes of Montana, 1947, be amended to read as follows:

"11-3518. (5520.78) **Police department — Powers of**

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officers — Director — Duties and powers — Designation as sheriff — Deputies — *Tenure of officers — Police reserve funds.* The police department shall be in charge of a director who shall be chief of the police force of the municipality. Officers and patrolmen of the police department, subordinate to the director, shall have the powers and perform the duties conferred on and required of police officers and patrolmen in cities and towns by the laws of this state and such powers and duties as may be conferred and required by the ordinances of the municipality. The director shall have the powers and perform the duties conferred on and required of sheriffs and police officers and patrolmen shall have the powers and perform the duties conferred on and required of deputy sheriffs by the general laws of the state. For the purpose of serving and making return on all criminal and civil process, executing judgments, decrees and orders of court and making sales thereunder and returns thereof, the director shall be known and designated as 'sheriff of the city and county of.....' and each police officer and patrolman shall be known and designated as deputy sheriff.

Powers and duties of police.

"Any police officer employed by any police department or departments, established as required by law in any city or town of the county prior to the election and qualification of a commission under this act, shall have the same job tenure rights as though no such election and qualification had taken place. Any such police officer who has vested rights in any police reserve fund shall maintain prior vested rights in such fund upon its transfer to a consolidated county municipality. Any police reserve fund established as required by law in any city or town of the county prior to the election and qualification of a commission under this act, shall be continued as such for the police department of the municipality, subject, however, to the prior vested rights of any police officer employed by any police department or departments, established as required by law in any city or town of the county prior to the election and qualification of a commission under this act. The board of trustees of such police reserve fund shall consist of the president, the director of finance, the director of law and two (2) members of the police department from the active list of the police officers of said municipality, who shall be selected

Police tenure rights preserved.

Vested rights— police reserve fund.

Board of trustees created.

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by a majority vote of the members of the police department on the active list of said municipality. Such selection shall be made between the first and tenth day of May in each year and said active police officer members of said board shall serve overlapping two (2) year terms. Except as provided in this section, the police reserve fund shall be continued and administered in the manner prescribed by law for such funds established in cities and towns.''

Approved March 7, 1961.

CHAPTER 191

An Act to Amend Section 11-3523, Revised Codes of Montana, 1947, to Provide for the Continuance, Creation, Support, Financing, Dissolution, Management and Change of Boundaries of Voluntary Fire Districts in Consolidated County Municipalities; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-3523 of the Revised Codes of Montana, 1947, be amended to read as follows:

Municipal fire departments—director.

''Section 11-3523. (5520.83) **Fire department—Director — Duties as chief** — *Continuance, creation and abandonment of voluntary fire districts — Supervision thereof.* The fire department of the municipality shall be in charge of a director who shall be chief thereof and who shall manage and control the department in the manner prescribed by the ordinances of the municipality.

Rights and duties preserved—voluntary fire departments and fire districts.

''Provided that notwithstanding any other provision of law the adoption of a consolidated county municipal government shall have no effect on the existence, rights or duties of any voluntary fire department or fire district created and legally in existence pursuant to the provisions of chapter 20, title 11, Revised Codes of Montana, 1947.

''Provided further that nothing in chapter 34, title 11, Revised Codes of Montana, 1947, shall be construed to prohibit the creation of voluntary fire departments or fire districts pursuant to the provisions of chapter 20, title 11, Revised Codes of Montana, 1947, within consolidated county municipalities.

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"Voluntary fire departments or fire districts within consolidated county municipalities shall only be organized, created, supported, financed, dissolved, managed, and their boundaries shall only be changed, pursuant to the provisions of chapter 20, title 11, Revised Codes of Montana, 1947."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 7, 1961.

CHAPTER 192

An Act to Amend Section 11-3524, Revised Codes of Montana, 1947, to Provide for Protection of Tenure, Disability and Pension Fund Rights for Firemen in Cities and Towns Which Become Merged Into Consolidated County Municipalities.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-3524 of the Revised Codes of Montana, 1947, be amended to read as follows: Amending clause.

"11-3524. (5520.84) *Firemen's tenure* — **Firemen's disability** *and pension* **funds — How continued** — *protection of rights in. Any firemen employed by any fire department or departments, established as required by law in any city or town of the county prior to the election and qualification of a commisison under this act, shall have the same job tenure rights as though no such election and qualification had taken place. Any such fireman who has vested rights in any disability or pension fund shall maintain prior vested rights to such funds upon their transfer to a consolidated county municipality.* Any disability *or pension* fund, or funds, of the fire department or departments, established as required by law in any city or town of the county prior to the election and qualification of a commission under this act, shall be continued as one such fund for the fire department of the municipality, *subject, however, to the prior vested rights of any firemen employed by any fire department or departments, established as required by law in any city or town of the county prior to the election and qualifica-* Firemen's tenure rights preserved. Vested rights—disability and pension funds.

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Board of trustees created.

tion of a commission under this act. The board of trustees of such disability *or pension* fund shall consist of the president, the director of finance, the director of law, the director of the fire department, and one member of the fire department selected by a majority of the members of such department between the first and tenth day of July of each year in which the municipality shall elect members of the commission. Except as provided in this section, the disability *or pension* fund of the fire department shall be continued and administered in the manner prescribed by law for such funds established in cities and towns."

Approved March 7, 1961.

CHAPTER 193

An Act to Amend Section 53-617, Replacement Volume No. Three (3), Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 103, Laws of 1959, Relating to a Sales Tax on New Passenger Vehicles, by Clarifying Said Section by Specifically Stating That New Passenger Motor Vehicles Are Subject to a Sales Tax Even When in the State on the First Day of January and Are Not Subject to Any Other Assessment or Taxation; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-617, replacement volume No. three (3), Revised Codes of Montana, 1947, as amended by section 1, chapter 103, laws of 1959, be, and the same is hereby amended to read as follows:

Sales tax created on new passenger vehicles.

"53-617. **Sales tax on new passenger vehicles.** In consideration of the right to use the highways of the State of Montana, there shall be imposed upon *any or all sales of* new passenger motor vehicles, *regardless of model or the date of said sale,* for which a license is sought, *and an original application for title is made,* a *new passenger* motor vehicle sales tax, as follows:

"One and one-half per cent (1½%) of the f.o.b. factory list price or f.o.b. port of entry list price of the auto-

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mobile, during the first quarter of the year; one and one-eighth per cent (1⅛%) of said list price during the second quarter of the year; and three-fourths (¾) of one per cent (1%) during the third quarter of the year, and three-eights (⅜) of one per cent (1%) during the fourth quarter of the year, this assessment to be made when the owner applies for his original Montana license through his county treasurer. Provided, however, that in case the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port of entry list price the state highway commission is authorized to use such published price lists as may be available. The proceeds from this tax should be remitted to the state treasurer every thirty (30) days for credit of the state highway fund.

"The tax herein imposed shall not apply to any motor vehicle assessed and described pursuant to the provisions of section 84-406, Revised Codes of Montana, 1947, but except for the provisions of that section, said new passenger motor vehicle shall not be subject to any other assessment or taxation during the calendar year in which the said original application for title is made irrespective of whether or not said new passenger motor vehicle is in the State of Montana on the first day of January of any such year."

No other assessment during calendar year.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 7, 1961.

CHAPTER 194

An Act to Amend Section 11-1001, Revised Codes of Montana, 1947, as Amended by Chapter 63, Laws of 1957, Providing for the Authorization of Cities and Towns to Furnish Water to Industries and to Persons Without City Limits to Establish Rates Therefor Subject to Public Service Commission Approval and for Other Purposes; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-1001, Revised Codes of Mon-

Amending clause.

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tana, 1947, as amended by chapter 63, laws of 1957, be, and the same is hereby amended to read as follows:

Power of city or town council to furnish water outside corporate limits.

"11-1001. (5040.1) (1) The city or town council of any city or town within the State of Montana, that owns and operates a municipal water system, to furnish water to the inhabitants of such city or town, as a public utility, shall, in addition to all other powers, have power to furnish water from such water system, to any person, factory, or other industry, located within the corporate limits of such city or town, or to any person, factory or other industry located outside the corporate limits of such city or town, *at reasonable rates filed by the city or town council and approved by the public service commission* to or for the use of any person, factory or other industry located outside the corporate limits of such city or town shall be made within, or at the boundary line of the corporate limits of such city or town, *or from any existing water line of such city or town located outside of the corporate limits of such city or town,* except as hereinafter provided.

"(2) The city council of any city within the State of Montana that owns and operates a municipal water system to furnish water to the inhabitants of such city, as a public utility, shall, in addition to all other powers, have power to furnish water from such water system to the inhabitants or to any person, factory, industry or producer of farm or other products located outside of the corporate limits of such city, *at reasonable rates filed by the city or town council and approved by the public service commission,* and such city council is further empowered to make collections for furnishing water in the same manner as collections are made within the corporate limits.

Penalty for unlawful taking of water.

"(3) Any person, firm or corporation residing either inside or outside of the corporate limits of a city owning a municipal water system which furnishes water as a public utility, who shall wilfully turn on the water after the same shall have been shut off by or under the direction of the said city for non-payment of water charges, or who shall unlawfully take water from such water system shall be guilty of a misdemeanor."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 3. This act shall be in full force and effect from and after its passage and approval. Effective immediately.

Approved March 7, 1961.

CHAPTER 195

An Act to Amend Section 25-605 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 66 of the Montana Session Laws, 1959, Relating to Salaries of County Officers; and Providing for An Increase in Salaries; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 25-605, Revised Codes of Montana, 1947, as amended by section 1, chapter 66 of the Montana session laws of 1959, be, and the same is hereby amended to read as follows: Amending clause.

"25-605. **Salaries of certain county officers.** The salaries of county treasurers, *clerk and recorder, clerk of the court,* county attorneys, sheriffs, county assessors, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries, as provided in section 32-303, Revised Codes of Montana, 1947, shall be based on the population and taxable valuation of the county in accordance with the following schedule: Salaries—certain county officers.

"Population of County	Salary Col. A	Taxable Valuation of County	Salary Col. B
Below 3,000	$1,825	Below $ 2,000,000	$1,825
3,000 to 3,999	1,875	$ 2,000,000 to 2,999,999	1,875
4,000 to 4,999	1,925	3,000,000 to 3,999,999	1,925
5,000 to 5,999	1,975	4,000,000 to 4,999,999	1,975
6,000 to 6,999	2,025	5,000,000 to 5,999,999	2,025
7,000 to 7,999	2,175	6,000,000 to 6,999,999	2,175
8,000 to 8,999	2,225	7,000,000 to 7,999,999	2,225
9,000 to 9,999	2,275	8,000,000 to 9,999,999	2,275
10,000 to 12,499	2,325	10,000,000 to 11,999,999	2,325
12,500 to 14,999	2,375	12,000,000 to 13,999,999	2,375
15,000 to 17,499	2,425	14,000,000 to 15,999,999	2,425
17,500 to 19,999	2,475	16,000,000 to 17,999,999	2,475
20,000 to 24,999	2,525	18,000,000 to 19,999,999	2,525

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25,000	to 29,999	2,575	20,000,000 to 22,499,999	2,575
30,000	to 39,999	2,625	22,500,000 to 24,999,999	2,625
40,000	to 49,999	2,700	25,000,000 to 29,999,999	2,700
50,000	to 59,999	2,800	30,000,000 to 34,999,999	2,800
60,000	to 69,999	2,900	35,000,000 to 39,999,999	2,900
70,000	to 79,999	3,000	40,000,000 to 44,999,999	3,000
80,000	to 89,999	3,100	45,000,000 to 49,999,999	3,100
90,000	to 99,999	3,200	50,000,000 to 54,999,999	3,200
100,000	and over	3,300	55,000,000 to 59,999,999	3,300
			60,000,000 to 64,999,999	3,300
			65,000,000 to 69,999,999	3,300
			70,000,000 to 74,999,999	3,300
			75,000,000 to 79,999,999	3,300

Computation—total salary.

"The total salary paid to county treasurers, *clerk and recorder, clerk of the court,* county attorneys, sheriffs, county assessors, county superintendents of schools, and county surveyors in counties where county surveyors receive salaries, as provided in section 32-303, Revised Codes of Montana, 1947, shall be the sum of the salary shown in column A based on population when added to the salary shown in column B based on taxable valuation.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

CHAPTER 196

An Act to Provide That Vegetable or Flower Seeds to be Offered for Sale at Wholesale or Retail in the State of Montana to be Properly Tagged and Dated to Apprise the Purchaser of Certain Information Relative to the Contents of the Seed, Weed, Content, and Germination; to Prescribe Duties of the Commissioner of Agriculture and the Director of the Montana Grain Inspection Laboratory and to Provide for Penalties for Non-Compliance With This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Vegetable or flower seeds offered for sale must be labeled.

Section 1. Any individual, firm, partnership, association, corporation or other group selling, offering to sell, or possessing for sale at wholesale or retail vegetable or

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Vegetable or flower seeds offered for sale must be labeled—continued.

flower seeds, within the State of Montana must, whether in package or in bulk, affix thereto in a conspicuous place on the exterior of the container of such seeds, a written or printed label or tag in the English language in legible type, script or copy, such label containing a statement specifying:

"Each container of less than one pound:

1. Kind and variety of seed.

2. With the name and address of the person who labeled the seed or who sells, offers or exposes such seed for sale within this state.

3. With the name and number per pound of each kind of restricted noxious weed seed.

4. In the case of vegetable seed which has a percentage of germination less than the standard prescribed in the federal seed act of 1960 with subsequent revisons:

(a) The percentage of germination.

(b) The percentage of hard seed, if more than one percent.

(c) The month and year the test was made.

(d) The words, "below standard germination," in not less than eight point bold face type.

5. Vegetable or flower seed containing any weed seeds in the "Prohibited List" shall not be sold in the State of Montana.

Each container of one pound or more:

1. Kind and variety of seed.

2. The lot number or other lot identification.

3. The name and number per pound of each kind of restricted noxious weed seed.

4. The percentage of germination.

5. The percentage of hard seed, if more than one percent.

6. The month and year the test was made.

7. The name and address of the person who labeled such seed or who sells, offers or exposes such seed for sale within this state.

8. Vegetable or flower seed containing any weed seeds in the "prohibited list" shall not be sold in the State of Montana."

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Vegetable or flower seeds offered for sale must be labeled—continued.

Vegetable or flower seed containing weed seeds in the "restricted list" may be sold in the State of Montana if weed seeds present are not in excess of *one-half percent (1/2%)* by weight of vegetable or flower seed. Vegetable or flower seed containing weed seeds not in either the prohibited or restricted lists may be sold in the State of Montana if total weed seeds present are not in excess of two percent (2%) by weight of vegetable or flower seed. The name or names of all restricted weed seed species present, and the number thereof, singly or collectively, per pound of vegetable or flower seed, shall appear on the label or tag.

Prohibited List	*Restricted List*
Canada Thistle (Cirsium arvense) (Carduus arvensis)	Dodder (Cuscuta spp.)
Leafy spurge (Euphorbia esula)	Blue Flowering Lettuce (Lactuca pulchella)
White Top (Lepidium Cardaris draba)	St. Johnswort (Klamathweed) (Hypericum perforatum)
Perennial peppergrass (Cararia repens)	Wild Onion (Wild Garlic) (Allium vineale)
Hoary cress (Hymenophysa (Cardaria) pubescens)	Ox-eye Daisy (Chrysanthemum leucanthemum)
Quackgrass (Agropyron repens)	Halogeton (Halogeton glomeratus)
Russian knapweed (Centaurea picris) (Centaurea repens)	Medusa-head wildrye (Elymus Caput-Medusea)
Perennial Sow Thistle (Sonchus arvensis)	Spotted knapweed (Centaurea maculosa)
Wild Morning Glory (Field Bindweed) (Convolvulus arvensis)	Hoary false alyssum (Berteroa incanna)
Toadflax (Linaria dalmatica)	Common toadflax (Linaria vulgaris)
Creeping bellflower (Campanula rapunculoides)	Wild Oats (Avena fatua)

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Curled Dock
(Rumex crispus)
Chickweed
(Stellaria spp.)
Plantain
(Plantago spp.)
Dandelion
(Taraxacum officinale)
Crabgrass
(Digitaria ischaemum)

9. The full name and address of the seedsman, importer, dealer or agent or of other persons or person, firm or corporation selling, offering, or exposing the said vegetable or flower seed for sale.

Inspection and testing.

Section 2. **Inspection by director of state grain and seed laboratory — Reports — Enforcement.** The director of the Montana grain inspection laboratory, of the Montana agricultural experiment station, his agent, or agents, shall inspect, examine, or make analyses of and test vegetable or flower seeds sold, offered or exposed for sale in the state at such time and place and to such an extent as he and the commissioner of agriculture may determine. Such director shall report to the commissioner of agriculture all violations as they appear. He shall also annually and not later than September first, make a report to the commissioner of agriculture of all tests made and the results thereof, which report may be published by the commissioner of agriculture, separately, or along with any other annual or biennial report of the department. Such director, his agent or agents, and the commissioner of agriculture and his authorized representatives shall have free access at all reasonable hours to all premises or structures to make examination of any seeds, or any other premises of any warehouse, elevator, or railway company, and upon tendering payment thereof, at the current value, may take any sample or samples of such seeds.

Duty to enforce.

It is hereby made the duty of the commissioner of agriculture of the department of agriculture to administer and enforce this act. For that purpose, he is hereby empowered to make all proper rules and regulations not inconsistent with this act or any federal laws now in effect or which may hereafter be enacted. To aid in the enforce-

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ment, he or his agents shall have power to issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of vegetable or flower seed which the commissioner of agriculture or his agent finds in violation of any of the provisions of this act, which order shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. The seed shall not be confiscated nor destroyed and upon proper correction, by reprocessing, labeling or otherwise, and when in the judgment of the commissioner of agriculture, the requirements of this act have been met, the stop sale order shall be lifted and the seed be permitted to be sold in the regular channels of trade. The director of the Montana grain inspection laboratory of the Montana agricultural experiment station shall formulate all necessary and proper rules and regulations relating to all his duties enumerated herein.

Prohibitions.

Section 3. **Prohibitions.**

(a) It shall be unlawful to sell, offer or expose for sale any vegetable or flower seed within this state:

1. Not labeled as required herein, or having a false or misleading label;

2. Seed to which there has been false or misleading advertisement;

3. Unless the test to determine the percentage germination shall have been completed within nine months, exclusive of the calendar month in which the test was completed prior to the sale, offering for sale, or exposure for sale;

4. Containing weed seeds in the prohibited list;

5. Containing weed seeds in the restricted list in excess of *one-half percent (1/2%)* by weight of vegetable or flower seed;

6. Containing a total of all weed seeds in excess of two percent (2%) of the whole by weight;

(b) It shall be unlawful for any individual, firm, partnership, association, or corporation within this state:

1. To detach, alter, deface, or destroy any label provided for in this act or the rules and regulations made

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and promulgated hereunder, or to alter or substitute seed, in a manner that may defeat the purposes of this act;

2. To disseminate any false or misleading advertisement concerning vegetable or flower seeds in any manner or by any means;

3. To hinder or obstruct in any way any authorized person in the performance of his duties, under this act;

4. To fail to comply with a "stop sale" order;

Penalties.

Section 4. **Penalty.** Any person, firm, or corporation who sells, offers or exposes for sale or distribution in the state any flower or vegetable seeds for seeding purposes, without complying with the requirements of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars ($25.00), nor more than one hundred dollars ($100.00) and costs of such prosecution, and upon conviction of the second or any subsequent offense shall be fined not less than fifty ($50.00) nor more than five hundred dollars ($500.00) and costs of such prosecution.

Approved March 7, 1961.

CHAPTER 197

An Act to Amend Section 92-714, Revised Codes of Montana, 1947, and Section 92-715, Revised Codes of Montana, 1947, as Last Amended by Chapter 234, Laws of 1957, Relating to the Manner of Payment of Compensation for Industrial Accidents, to Provide for Biweekly Payment of Industrial Accident Compensation.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-714, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Payment of compensation—when made.

"92-714. (2925) **Payments made how.** All payments of compensation, as provided in this act, shall be made at the end of each *two (2) week period,* except as otherwise provided herein."

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Amending clause.

Section 2. That section 92-715, Revised Codes of Montana, 1947, as last amended by section 8, chapter 234, laws of 1957, be, and the same is hereby amended to read as follows:

Conversion to lump sum.

"92-715. (2926) **Monthly payments converted into a lump sum.** The *biweekly* payments provided for in this act may be converted, in whole or in part, into a lump sum payment, which lump sum payment shall not exceed the estimated value of the present worth of the deferred payments capitalized at the rate of two per centum (2%) per annum. Such conversion can only be made upon the written application of the injured workman, his beneficiary, or major or minor dependents, as the case may be, and shall rest in the discretion of the board, both as to the amount of such lump sum payment and the advisability of such conversion. The board is hereby vested with full power, authority, and jurisdiction to compromise claims and to approve compromises of claims under this act; and all settlements and compromises of compensation provided in this act shall be absolutely null and void without the approval of the board. Any approval of the board must be in writing and set forth specifically the reasons for such lump sum or compromise payment."

Written application.

Power of board—compromise.

Approved March 7, 1961.

CHAPTER 198

An Act to Provide for the Creation of Special Improvement Districts Including Areas Outside Towns or Cities and Including Areas Within Incorporated Towns, Cities and Rural Areas; to Own and Operate Television Translator Stations; Provide a Method to Tax All Persons Who Use Such Stations; for the Levy and Collection of Such Taxes; Provide for the Operation, Management and Control of Such Districts; the Acceptance of Gifts of Property or Money; for the Exemption of Certain Persons From the Provisions of the Act; Penalties for the Violation of the Act and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

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Purposes—television districts.

Section 1. The purposes of a television district shall be to serve the public interest, convenience, and necessity in the construction, maintenance and operation of television translator stations and any system necessary thereto by appropriate electric or electronic means for television program distribution, but said purposes are not meant to include the construction or operation of community antenna systems, commonly known and referred to as cable TV systems.

Any area may organize.

Section 2. Any area of the state may organize as a television district for the performance of functions provided for in this act.

Inclusion.

Section 3. A television translator district may include a part or all of any county or may include areas in more than one county and may include any municipality located within such county or counties.

Petition—requirements.

Section 4. A petition to form a district shall be presented to the county clerk and recorder of each of the counties in which any portion of the area is situated. Petitions shall be signed by owners of television sets within the proposed district, equal in number to not less than fifty-one per cent (51%) of the registered electors who are owners of television sets within the proposed district. The petition shall state the objects of the district and designate the boundaries thereof by section, the approximate number of people to be benefited thereby and shall contain a brief description of the proposed system including type of construction, location, approximate cost of the installation. It shall also state that the proposed district will be conducive to the public interest, convenience and necessity. It shall request that it be organized as a television district.

Procedure for filing and certifying.

Section 5. Such petition shall be filed with the county clerk and recorder of all counties in which the signers on the petition are located. If the petition is filed with more than one county clerk and recorder each petition shall state the number of signers on it and the name of the county where the petition containing the most signers is filed. Upon the filing of such petition or petitions the county clerk and recorder shall examine the petition and certify whether the required number of signers are found thereon and after the examination of the petition the county clerk and recorder of any county containing the

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least number of signers, if more than one county is involved, shall transmit the petition to the county clerk and recorder of the county containing the most signers. Within thirty (30) days following the receipt of such petitions the county clerk and recorder in the county containing the most names on the petitions shall transmit the petitions to the board of county commissioners of the county in which the greater number of petitioners reside together with his certificate and the certificates of any other county clerk and recorder as to the sufficiency thereof.

Publication and notice of hearing.

Section 6. Upon receipt of a duly certified petition the board of county commissioners shall cause the text of the petition to be published once a week for at least three (3) consecutive weeks in a newspaper of general circulation within the county where the petition is presented. If any portion of the proposed district lies in another county the petition and notice shall likewise be published in that county. No more than five (5) names attached to the petition shall appear in the publication and notice but the number of signatures shall be stated. With the publication of the petition there shall be published a notice of the time of the meeting of the county commissioners when the petition will be considered stating that all persons interested may appear and be heard.

Sponsors' deposit.

At the time of filing the petition the sponsors thereof shall cause to be deposited with the county clerk and recorder a sufficient sum of money to cover the cost of publication of all said notices. If the notices are not published the deposit shall be returned to whomsoever deposited the funds and if there is any surplus remaining after paying for such publication as herein provided it shall be returned to the original depositor or depositors and if a district is created the fees so expended are an obligation of the district and shall be repaid by the district to the depositors.

Conduct of hearing.

Section 7. At the time set for hearing such petition or petitions the board of county commissioners shall hear all persons who desire to be heard relative to the creation of a television district. The board of county commissioners may, if they so desire and it appears to be desirable, adjourn the meeting for not to exceed thirty (30) days in time to further hear the petitioners and protestants, if

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Board of county commissioners shall adopt resolution.

any. After such hearing or hearings the board of county commissioners shall adopt a resolution either creating the proposed television district or denying the petition. If the board of county commissioners desires to create the television district they shall adopt a resolution describing the proposed system and describing the boundaries of such district, including type of construction, location, type and approximate cost of any installation to be made and finding that the district will be conducive to the public interest and convenience and thereby such district shall be created.

Creation.

Name—order filed where—fees.

Section 8. If the board of county commissioners passes a resolution creating such district they shall name the district ..... television district and file a copy of the order creating such district, if only one county is included therein, with the county clerk and recorder for which the county clerk and recorder shall receive a fee of three dollars ($3.00) and if portions of more than one county are included in said district a copy of the order shall be filed in each county and also with the secretary of state for which he shall receive a fee of five dollars ($5.00).

Board of trustees—appointment and term.

Section 9. The board of county commissioners, upon the creation of said district, and as a part of the order creating the district, shall appoint a board of three trustees to administer the affairs of the district. Each of said trustees shall be a resident and owner of a television set from within the district. *The trustees so appointed upon creation of such district shall be appointed for staggered terms of one (1), two (2) and three (3) years; and if more than one county is involved, one of said trustees shall be appointed from the county having the least number of television sets that will be benefited by such district, and such trustee shall be given the three (3) year term; said trustees so appointed shall hold office for the term of their respective appointment or until his successor is appointed and qualified; at the end of the respective terms of said trustees, the then board of county commissioners shall appoint a new trustee for a three (3) year term,* and in case of a vacancy by death, resignation, removal from the district or otherwise a trustee shall be appointed by the board of county commissioners to fill such vacancy to the end of the term of such trustee.

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County assessor shall make list of owners.

Section 10. A copy of the order creating the district shall be delivered to the county assessor of each county within the district and he shall, on or before the first (1st) day of August of any given year, prepare and certify a list of all persons owning television sets within such district and deliver a copy of such list to the board of trustees of said district.

Budget and tax.

Section 11. The board of trustees shall, from said list so prepared by the county assessor, remove therefrom the names of any persons who have claimed exemption under this act and shall prepare a budget for the expenses for the next year, which budget together with the list of such persons residing in the district and subject to the special tax after all exemptions have been allowed as provided in this act shall be presented by September 1 to the board of county commissioners who shall levy the tax requested by said trustees; provided however, said tax shall not exceed the sum of fifteen dollars ($15.00) per annum, per person owning a television set and the board of county commissioners shall levy such tax in accordance with the request herein mentioned, which said tax shall be certified to the county clerk and recorder and entered on the assessment books as against such persons and collected by the county treasurer as all other taxes are collected.

Disposition of funds.

Section 12. The county treasurer shall be the treasurer for said district and hold said taxes as collected in a separate fund to be disbursed by him upon warrants drawn by the trustees, at least two of whom shall sign any warrant for the disbursement of such funds by the county treasurer.

Authority granted district.

Section 13. A television district organized under this act, acting through its board of trustees herein provided for, may: (1) perform all the acts and take all the necessary or proper steps to assure that there will be a fair, efficient, and equitable distribution of television services within the area in order that all persons within such service area shall be supplied by means of an appropriate electrical or electronic system for television program distribution, but may not perform any acts or take any steps to construct or operate community antenna systems, commonly known and referred to as cable TV systems; such authorized system to provide such flexibility as to permit radical improvements in technical quality without ren-

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dering inoperative receivers therein but discontinuance of service by the district for improvements or repairs for a temporary period shall not be construed as rendering inoperative; (2) if necessary or proper in the furtherance of the objects of this act, acquire, build, construct, repair, own, maintain and operate any necessary stations transmitting simultaneous visual and aural signals intended to be received by the general public, relay stations, pick-up stations, or any other electrical or electronic system necessary; (3) make contracts to compensate any owner of land or other property for the use of such property for the purposes of this act; (4) make contracts with the United States, or any state, municipality or any department or agency of those entities for carrying out the general purposes for which the district is formed; (5) acquire by gift, devise, bequest, lease, or purchase, real and personal property, tangible or intangible, including lands, rights of way and easements, necessary or convenient for its purposes; (6) to make contracts of any lawful nature (including labor contracts or those for employees' benefits), employ engineers, laboratory personnel, attorneys, other technical or professional assistants, and any other assistants or employees necessary to carry out the provisions of this act; (7) issue warrants payable at the time stated therein to evidence the obligation to repay money borrowed or any other obligation incurred by the district, warrants so issued to draw interest at a rate fixed by the board not to exceed five per cent (5%) per year payable annually or semiannually as the board may prescribe; (8) contract indebtedness or borrow money for corporate purposes, and may issue revenue bonds therefor to be repaid from rates and charges, bearing interest at a rate not exceeding six per cent (6%) per annum, payable semiannually, the bonds not to be sold for less than par and accrued interest; (9) prescribe tax rates for the providing of services throughout the area in accordance with the provisions of this act; and (10) prescribe such installation or ready to serve charges to be used for any costs connected with preparation, acquisition, or construction of the system; (11) apply for, accept, and be the holder of any permit or license issued by or required under federal or state law.

Expenses allowed trustees.

Section 14. The board of trustees of the district shall serve without compensation but will be reimbursed for

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reasonable expenses incurred in the operation of the television district.

Exemption from tax on affidavit.

Section 15. The taxpayers in the television district who do not receive the signal of the television translator station or who receive direct reception from the television station from which the television translator repeats a signal or receive service through the medium of a community antenna system on which they are a subscriber in good standing will be exempt from the payment of the tax for the support of the television district provided they file an affidavit setting forth any of the grounds above mentioned, which affidavit shall be filed with the board of trustees who shall upon the receipt of such affidavit have the names of such persons so exempted from the tax stricken from the list of taxpayers certified to the board of county commissioners and shall not be liable for such tax.

Trustees' meeting.

Section 16. The board of trustees shall meet once a month at a regular time and place to transact the business of the district, the time and place to be fixed by the trustees and any change in the time and place of meetings must be given by publication of notice in a newspaper most likely to give notice to the taxpayers within such district. All such meetings shall be open in their entirety to the public and all meetings shall be held at some place within the area of the television district.

False claim made misdemeanor.

Section 17. Any person or persons who shall make a false or fraudulent claim for exemption as provided in this act shall be guilty of a misdemeanor.

Abandonment by petition.

Section 18. If at any time a petition for abandonment of the television district, signed by owners of television sets within the district, equal in number to not less than fifty one per cent (51%) of the registered electors who are owners of television sets, is filed with the board of trustees, the board of trustees shall forthwith notify the board or boards of county commissioners which created the district, and such board or boards of county commissioners shall by resolution immediately declare the district abandoned. All properties and monies remaining after the satisfaction of all debts and obligations of such abandoned district shall be deposited to the credit of the general fund of the county; and if the abandoned district

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embraced areas in more than one county, properties and monies remaining after the satisfaction of all debts and obligations of such abandoned district shall be deposited to the credit of the general funds of such counties in proportion to the number of television sets in each county which were served by the district.

Repealing clause.

Section 19. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

CHAPTER 199

An Act to Repeal Sections 61-127 to 61-137, Both Inclusive, of the Revised Codes of Montana, 1947, Relating to the Adoption of Children; to Amend Section 61-205 of the Revised Codes of Montana, 1947, Enacted as Section 5, Chapter 240 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, to Provide That Consent to Adoption Need Not be Required From a Father or Mother Divorced and Who Has Not Contributed to the Support of the Child for a Period of One Year if Able; and Deleting Certain Exceptions; to Amend Section 61-210 of the Revised Codes of Montana, 1947, Enacted as Section 10, Chapter 240 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, Relating to Summary Decree of Adoption, to Provide That the Report Specified in the Previous Section Remains Discretionary; to Amend Section 61-211 of the Revised Codes of Montana, 1947, Enacted as Section II, Chapter 240 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, Relating to Interlocutory and Final Decrees of Adoption, to Provide That Proper Notices be Given of the Hearing Before an Interlocutory or Summary Decree of Adoption May be Issued; to Amend Section 61-140 of the Revised Codes of Montana, 1947, Relating to Procedure for Adopting an Adult; to Provide for Proper Procedure for Adoption of an Adult; Amending Chapter 2, Title 61, Revised Codes of Montana, 1947, as Amended, by the Addition of Section 61-218, to Provide for the Consent of a Minor Parent; and

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Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That sections 61-127, 61-128, 61-129, 61-130, 61-131, 61-132, 61-133, 61-134, 61-135, 61-136, and 61-137 of the Revised Codes of the State of Montana, 1947, be, and the same are hereby repealed.

Amending clause.

Section 2. That section 61-205 of the Revised Codes of the State of Montana, 1947, enacted as section 5, chapter 240, of the session laws of the thirty-fifth legislative assembly of the State of Montana of 1957, be, and the same is hereby amended to read as follows:

Consent to adoption of minor—when and by whom.

"61-205. **Persons required to consent to the adoption.** An adoption of a child may be decreed when there have been filed written consents to adoption executed by:

"(1) Both parents, if living, or the surviving parent, of a legitimate child; provided, that consent shall not be required from a father or mother, *(a)* adjudged guilty by a court of competent jurisdiction of physical cruelty toward said child; or,

"*(b)* adjudged to be an habitual drunkard; or,

"*(c)* who has been judicially deprived of the custody of the child on account of cruelty or neglect toward the child; or,

"*(d)* who has, in the State of Montana, or in any other state of the United States, wilfully abandoned such child; or,

"*(e)* who has caused the child to be maintained by any public *or private children's institution,* charitable agency, or any licensed adoption agency, or the state department of public welfare of the State of Montana for a period of one (1) year without contributing to the support of said child during said period, *if able;* or,

"*(f) if it is proven to the satisfaction of the court that said father or mother, if able, has not contributed to the support of said child during a period of one (1) year before the filing of a petition for adoption; or (an adoption of a child may be decreed when there have been filed written consents to adoption executed by).*

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"(2) The mother, alone, if the child is illegitimate; or,

"(3) The legal guardian of the person of the child if both parents are dead or if the rights of the parents have been terminated by judicial proceedings and such guardian has authority by order of the court appointing him to consent to the adoption; or,

"(4) The executive head of an agency *if the child has been relinqusihed for adoption to such agency* or if the rights of the parents have been judicially terminated, *or if both parents are dead,* and custody of the child has been legally vested in such agency with authority to consent to adoption of the child; or,

"(5) Any person having legal custody of a child by court order if the parental rights of the parents have been judicially terminated, but in such case the court having jurisdiction of the custody of the child must consent to adoption, and a certified copy of its order shall be attached to the petition.

"The consents required by paragraphs (1) and (2) shall be acknowledged before an officer authorized to take acknowledgements, or witnessed by a representative of the state department of public welfare or of an agency, or witnessed by a representative of the court."

Amending clause.

Section 3. That section 61-210 of the Revised Codes of the State of Montana, 1947, enacted as section 10, chapter 240, of the session laws of the thirty-fifth legislative assembly of the State of Montana of 1957, be, and the same is hereby amended to read as follows:

Summary decree—when.

"61-210. **Summary decree.** If the child is related by blood to one of the petitioners, or is a stepchild of the petitioner, or the court finds that the best interests of the child will be furthered thereby, the court, after examination of the report *specified* in section 61-209, *if such report had been ordered by said court,* in its discretion, may waive the entry of an interlocutory decree and the waiting period of six (6) months provided in section 61-211 and grant a final decree of adoption if satisfied that the adoption is for the best interests of the child."

Amending clause.

Section 4. That section 61-211 of the Revised Codes of the State of Montana, 1947, enacted as section 11,

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chapter 240 of the session laws of the thirty-fifth legislative assembly of the State of Montana, 1957, be, and the same is hereby amended to read as follows:

Interlocutory decree.

"61-211. **Interlocutory and final decree.** Upon examination of the report described in section 61-209, *if such report has been deemed necessary by said court,* and after hearing, the court may issue an interlocutory decree giving the care and custody to the petitioners pending the further order of the court.

Service of process.

"When a petition has been filed seeking the adoption of a child, the court must cause service of process to be made on the parent or parents of the child, except in those cases hereinafter provided, in the following manner:

Citation.

"The court shall order a citation to issue to the parent or parents in the name of the State of Montana and under the seal of the court, directing such parent or parents to appear in court at a time to be fixed by the court, and show cause why said petition should not be granted. Such citation, together with a copy of the petition for adoption, shall be personally served upon such parent or parents.

Service by publication.

If, however, any such parent or parents cannot be found within this state, service may be had by publication of a copy of said citation in the manner provided for the publication of summons by section 93-3014. If after completion of such service, any parent so served does not appear, the court may act upon the petition, and the order of the court thereon shall be binding upon all persons so

Appeal.

served; provided that any such person shall have the right to appeal from the order in the manner and form provided for appeals from a judgment in civil actions.

Hearing.

"The petitioners and the child shall appear at said hearing, unless the presence of the child is waived by the court.

When service of process unnecessary.

"Service of process, as aforesaid, need not be made on a parent who has consented in writing to an adoption; or on the father of an illegitimate child; or on any parent whose consent to adoption is not required under the provisions of section 2 of this act (section 61-205, as herein amended); and service of process shall not be made on any parent who has relinquished his child to the state department of public welfare or an adoption agency licensed by the state department of public welfare.

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Investigator shall report to court.

"After an interlocutory decree, as aforesaid, has been issued by the court, the investigator, *if any,* shall observe the child in his adoptive home and report in writing to the court within six (6) months on any circumstances or conditions which may have a bearing on the adoption.

Final decree after hearing and notice.

After six (6) months from the date of the interlocutory decree, the petitioners may apply to the court for a final decree of adoption. The court shall thereupon set a time and place for final hearing. Notice of the time and date of the hearing shall be served on the state department of public welfare, and the investigator, *if any.* The investigator, *if any,* shall file with the court a written report of *his* findings and recommendations and certify that the described investigation, if any, has been made since the granting of the interlocutory decree. After hearing on said application, at which the petitioners and the child shall appear, unless the presence of the child is waived by the court, the court may enter a final decree of adoption if satisfied that the adoption is for the best interests of the child. *If the adoption is denied, an appropriate order shall be made as to the future custody of said child."*

Amending clause.

Section 5. That section 61-140 of the Revised Codes of the State of Montana, 1947, be, and the same is hereby amended to read as follows:

Procedure— adoption of adult.

"61-140. **Procedure applicable.** That, except as otherwise inconsistent with this act, the procedure and law for adoption of minors set forth in sections *61-203, 61-204, 61-208, 61-210, 61-211, and 61-212,* shall be applicable in proceedings for the adoption of an adult under the provisions of this act; *provided, however, that provisions concerning an interlocutory decree shall not be applicable in the case of the adoption of an adult."*

Amending clause.

Section 6. That chapter 2, title 61, Revised Codes of Montana, 1947, as amended, be, and hereby is amended by addition of a new section entitled "Minor Parent," to be numbered 61-218, and to read as follows:

Minor parent.

"61-218. A parent who is a minor shall have the right to relinquish his or her child for adoption, and such relinquishment shall not be subject to revocation by reason of such minority."

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Repealing clause.

Section 7. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

CHAPTER 200

An Act to Provide for Issuing Temporary Permits to Unlicensed Special Fuel Users of All Special Fuel Vehicles; to Provide That Said Permits Shall be Issued for a Minimum Fee of Twenty Dollars ($20.00) and Shall be Valid for a Period of Time Not to Exceed Seventy-two (72) Hours; to Provide for a Method of Collection and Disposal of Said Fees; to Provide That the State Board of Equalization Shall Furnish Said Permits and Forms and Generally Enforce This Act; and Providing a Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Temporary special fuel permit.

Section 1. A temporary permit shall be issued to all unlicensed users of all special fuel vehicles operating within the State of Montana. The permits will be issued by scale house personnel, gross vehicle weight (g.v.w.) patrol crews, Montana highway patrolmen, and such other enforcing agents as the board of equalization may prescribe by order, rule or regulation.

Fee.

Section 2. The temporary special fuel permits shall cost the special fuel vehicle user a fee of twenty dollars ($20.00); said permit shall be valid for a period of time not to exceed seventy-two (72) hours and will be automatically void should said vehicle leave the State of Montana during the seventy-two (72) hour period. All fees collected will be remitted to the state board of equalization. Special fuel temporary permits, remittance forms and any other necessary papers for the accounting and enforcement of this act shall be furnished by the state board of equalization.

Penalty—operation without permit.

Section 3. Any unlicensed user of special fuel vehicles operating within the State of Montana, without making application for said temporary permit, and paying the specified fee, shall be guilty of committing a misdemeanor and upon conviction, be fined fifty dollars ($50.00).

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Nothing contained herein shall affect the existing policy of accepting a compliance bond to be retained for use by the state board of equalization and to be imposed at the discretion of the enforcing agency.

Approved March 7, 1961.

CHAPTER 201

An Act to Revise the Requirements, Procedures and Methods of Filing and Adopting Rates, Charges, Fares, Classifications, and Rules of Service for Motor Carriers; Repealing Section 8-104, Revised Codes of Montana, 1947, as Amended by Chapter 262, Laws of Montana, 1955; Repealing Section 8-106, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith; Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Duty to fix rates.

Section 1. **Board's duty to fix rates.** It shall be the duty of the board to fix, alter, regulate and determine just, fair, reasonable, non-discriminatory, and sufficient rates, fares, charges, classifications, and rules of service for the operation of class A and B motor carriers within this state. The board also may fix and determine reasonable maximum or minimum rates for the operations of any class C motor carrier when the same are required for the best interests of public transportation.

Rate schedules must be filed.

Section 2. **Rate schedules, filing with board.** Every class A or B motor carrier holding a certificate must maintain on file with the board a full and complete schedule of its rates, fares, charges, classifications, rules of service, and any and all tariff provisions relating to such rates, fares, charges, classifications, or rules. Every schedule on file with and approved by the board on the effective date of this act shall remain in full force and effect until changed or modified by the board or by the carrier with the approval of the board.

Approval.

No change, modification, alteration, increase, or decrease in any rate, fare, charge, classification, or rule of service shall be made by any motor carrier without first obtaining the approval of the board. The board shall

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Board shall regulate.

prescribe rules and/or regulations providing for the form and style of all schedules and tariffs and for the procedures to be followed in filing or publishing any changes or modifications of the same.

Rate deviation unlawful.

Section 3. **Deviation from rate schedules unlawful.** It shall be unlawful for any class A or B motor carrier to charge, demand, receive, or collect any greater or less rate, charge or fare than that fixed by the board for the transportation service provided. When maximum or minimum rates have been established for any service provided by any class C motor carrier, it shall likewise be unlawful for such carrier to charge, demand, receive, or collect any greater compensation or rate than that established for the service by any applicable maximum rate, or any less compensation or rate than that established by any applicable minimum rate. It also shall be unlawful for any class A or B motor carrier, or any class C motor carrier subject to maximum or minimum rates, to refund or remit in any manner or by any device any portion of the rates, fares, and charges required to be collected under the schedule of the class A or B carrier on file with the board or under the maximum or minimum rates established by the board for the class C carrier.

Rate discrimination forbidden.

Section 4. **Rate preference, discrimination forbidden.** All rates, fares, charges, classifications, or rules of service for the transportation of property and/or persons upon the public highways of this state must be fair, just, reasonable, and non-discriminatory, and no motor carrier operating under established rates shall make, give, or permit any undue preference or advantage to any particular person, company, partnership, corporation or locality, or any particular description of traffic, nor shall such motor carrier subject any particular person, company, partnership, corporation, or locality, or any particular description of traffic, to any prejudice or disadvantage in any respect.

Board may investigate.

The board may, upon its own initiative or upon the complaint of any interested party, investigate any rate, fare, charge, classification, or rule of service contained in the schedule of any motor carrier; if the board shall find, after such investigation, that any such rate, fare, charge, classification, or rule of service is unfair, unjust, unreasonable, or discriminatory, it shall disallow the same

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and fix a rate, fare, charge, classification, or rule of service which shall be fair, just, reasonable, and non-discriminatory, and it shall order the affected motor carrier or carriers to conform to such modified schedule; provided however, that each motor carrier affected by any complaint or investigation shall first be given notice of the same and an opportunity to be heard before the board.

Rate change—approval.

Section 5. **Changes, revisions of rate schedules, how made.** No motor carrier shall change or revise any rate, fare, charge, classification, or rule of service contained in its schedule without first obtaining approval therefor from the board. Such changes or revisions shall be made by filing with the board the tariff sheet or sheets containing such changes or revisions, plainly stating the change or changes, or revision or revisions, to be made; provided further, that the public shall be provided with such notice of the proposed changes or revisions as the board shall, by rule, require. The tariff sheet or sheets containing such changes or revisions shall be deemed approved and effective thirty (30) days after the same are filed unless the proposed revisions or changes are suspended or disallowed by the board prior to the expiration of the thirty (30) day period; provided however, that the board may, for good cause, allow any change or revision to become effective on less than thirty (30) days after the filing thereof.

Notice to public.

Board may suspend.

Upon its own initiative, or upon the complaint of any interested party filed with the board within fifteen (15) days after the date upon which a change or revision of any rate, fare, charge or classification is filed with the board, the board may suspend the operation of such rate, fare, charge, or classification for a period not to exceed one hundred and twenty (120) days, provided however that the order directing such suspension must be issued by the board not less than two (2) business days prior to the proposed effective date; and provided further, that the motor carrier or carriers filing such rate, fare, charge, or classification shall be given prompt notice by the board of any complaint filed by any interested party to any proposed tariff change or revision and such carrier or carriers also shall be given an opportunity to reply to any such complaint. If the proposed change or revision is in a tariff issued by a tariff publishing bureau for a motor

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carrier or carriers, notice to such bureau of any complaint will constitute notice to the participating carriers in such tariff. When the suspension of any proposed change or revision in a tariff is ordered by the board, it shall also order a public hearing to consider the reasonableness of the proposed change or revision; due notice shall be given for such hearing to all known interested or affected persons and the same shall be allowed to appear and present evidence. After considering the evidence presented at such hearing, the board shall issue an order approving, denying, or modifying the proposed change or revision; provided however, that unless such hearing is held and such order is issued within one hundred and twenty (120) days from the date upon which the suspension was ordered, the proposed change or revision shall be deemed approved and effective as filed.

Public hearing.

Cause of action—recovery of excess charges.

Section 6. **Recovery of excess charges.** Any sum or amount of money paid to any motor carrier in excess of the rates, fares, or charges established for such service by the board may be recovered from such carrier by the person or shipper who paid the same in any action brought in the district court of the county in which such payment was made, provided that any such action must be brought within two (2) years from the date of such payment. No contract or agreement, written or otherwise, between such person or shipper and any motor carrier, shall be admissible in evidence for the purpose of showing a waiver of the right given by this section. If upon the trial of such action, it shall satisfactorily appear to the court or jury that such overcharge was wilfully made, the person or shipper bringing the said action shall be awarded damages in treble the amount of such excess or overcharge, together with the costs and expenses of such action, including a reasonable attorney's fee, to be taxed and collected as other costs in the action.

Repealing clause.

Section 7. That section 8-104, Revised Codes of Montana, 1947, as amended by chapter 262 of the laws of Montana, 1955, and section 8-106, Revised Codes of Montana, 1947, and all other acts or parts of acts in conflict herewith be and the same hereby are repealed.

Effective immediately.

Section 8. This act shall be effective from and after its passage and approval.

Approved March 7, 1961.

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CHAPTER 202

An Act to Amend Section 16-1031, Revised Codes of Montana, 1947, to Authorize Boards of County Commissioners to Establish Monthly Service Charges for Garbage and Ash Collection Purposes in Lieu of Taxation of Property Within Garbage Districts; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-1031, Revised Codes of Montana, 1947, is hereby amended to read as follows: Amending clause.

"16-1031. (4465.28) **Garbage and ash collection — Tax** — *Rates in lieu of tax.* The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: To create, abolish and change garbage and ash collection districts in thickly settled areas outside of the limits of incorporated cities and towns. Such districts shall be created under rules to be promulgated by said board, which rules shall provide for petition on the part of a majority of taxpayers residing within such areas, for the survey of proposed districts by the county health officer as to boundaries and methods for disposal of garbage and ashes within such districts. When such a district has been created under the authority of this section the county commissioners shall be authorized and empowered to levy not to exceed *two (2)* mills on the taxable property within such district for the maintenance and support thereof and for the purchase or leasing of land necessary for said purpose. *In lieu of such levy, the county commissioners may provide for the collection and disposal of garbage and ashes for such districts by authorizing individual contractors or firms to perform such services under a system of rates approved by the commissioners. Such rates shall be applied on a fair and equal basis to all persons utilizing such garbage collection service within a district and all rates so established shall be in relation to the amount and manner of collection and disposal service provided to the various types of customers within a district; provided, however, that in no event shall any fee exceed the amount of two dollars and fifty cents ($2.50) per month for a family residential unit. Collection under such fees shall*

County garbage and ash collection districts authorized.

Tax levy.

Collection fee in lieu of levy.

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be an alternative to the tax levy authorized by this section, and no such levy shall be made upon taxable property within any district in which garbage collection service is provided by contractors or firms under rates established by the commissioners."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1961.

CHAPTER 203

An Act to Protect the Public From Drowning in Open Sewage Lagoons and Open Cesspools, by Requiring the Owner or Owners of Said Sewage Lagoons or Cesspools, in Areas Inhabited by Children or Attractive to Children, to Take the Necessary Precautionary Measures to be Prescribed by the Boards of County Commissioners in the Various Counties for Adequate Fencing or Enclosing of Said Lagoons and Cesspools; to Provide for a Penalty for Noncompliance With This Act; and to Prescribe the Duties of the Boards of County Commissioners, Sheriffs and County Attorneys in the Various Counties.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose—prevention of drowning.

Section 1. The legislative assembly declares that the proper control of open sewage lagoons and cesspools, servicing the disposal of sewage and waste in areas where the presence of children or the attractiveness of the areas to children make them dangerous to the lives of children is affected with a public interest. The purpose of this act is to prevent the drownings of children in unfenced, uncovered and open sewage lagoons and cesspools, in inhabited areas. This act shall be deemed an exercise of the police power of the State of Montana in and for the protection of the welfare, health, peace and safety of the people of Montana.

Section 2. It shall be the duty of the county sheriffs to investigate all open sewage lagoons and cesspools in

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Duty of sheriff to investigate open sewage lagoons and cesspools.

inhabited areas within their respective counties and to report their findings with recommendations as to future corrective procedures to their board of county commissioners; thereupon it shall be the duty of the board of county commissioners of the county to promulgate such rules, regulations and orders in each particular case, as in their respective discretions, they deem adequate to eliminate the danger of drowning of children by any uncovered and unprotected sewage lagoon or cesspool in inhabited areas within their counties.

Board to regulate.

Notice to owner to comply with fencing order.

Section 3. After it has been determined what corrective measures, if any, are necessary to protect the public from open lagoons and cesspools, the board of county commissioners of the county shall cause notice to be served by the sheriff, either personally or by certified mail, upon any owner or owners of said sewer lagoons or cesspools. Said owner or owners shall be given sixty (60) days after receipt of notice within which to comply with the board of county commissioners' rules, orders and regulations respecting enclosing or fencing said lagoons or cesspools; in the event more than sixty (60) days are needed by the owner or owners of lagoons or cesspools to comply with such order, the board of county commissioners may, upon application of said owner or owners, extend the time in which said owner or owners must comply.

County attorney shall enforce.

Section 4. It shall be the duty of the board of county commissioners to submit the name or names of any owner or owners not complying with the provisions of this act to the county attorney of said county where the non-compliance offense has occurred and thereupon the county attorney shall take the necessary legal action to enforce the provisions of this act.

Penalty for noncompliance.

Section 5. Any person, partnership, association, company, corporation or other group that does not take the necessary precautionary measures as directed and ordered by the board of county commissioners shall be guilty of committing a public nuisance. Such act may be enjoined in an action instituted and prosecuted by the county attorney. Violation of any provision of this act will subject said offending owner or owners, to a fine of not more than five hundred dollars ($500) or imprisonment not to exceed six (6) months in the county jail, or both.

Approved March 7, 1961.

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CHAPTER 204

An Act Establishing the Lewis and Clark Highway From the Junction of Highway Ninety-three (93) at Lolo, Montana, to the Idaho-Montana State Line; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Lewis and Clark highway established.

Section 1. There is hereby established the Lewis and Clark highway, which shall be composed of the following existing routes: Beginning at the junction of highway ninety-three (93) in Lolo, Montana, to Lolo Hot Springs, Montana, to the Idaho-Montana state line.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

CHAPTER 205

An Act to Amend Section 16-1015 of the Revised Codes of Montana, 1947, Replacement Volume Two (2) as Amended by Chapter Forty-eight (48), Session Laws of Montana, 1957, and Chapter Two Hundred and Twelve (212) Session Laws of Montana, 1959, Relating to the Powers and Duties of County Commissioners to Levy An Annual Tax on the Taxable Property of the County to Defray Current Expenses, Including Salaries Not Otherwise Provided for, Not Exceeding Sixteen (16) Mills for Any One (1) Year and to Levy Such Taxes as Are Required by Special or Local Statutes; Providing for An Additional Levy of Four (4) Mills for a Prescribed Period; and Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-1015, of the Revised Codes of Montana, 1947, Replacement Volume Two (2), as amended by chapter forty-eight (48), session laws of Montana, 1957, and chapter two hundred and twelve (212), session laws of Montana, 1959, be, and the same are hereby amended to read as follows:

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Power given county to levy—16-mill maximum.

"16-1015. (4465.12) **Taxation.** The board of county commissioners has jurisdiction and power under such limitations and reservations as are prescribed by law: To levy such tax annually on the taxable property of the county, for county purposes as may be necessary to defray the current expenses thereof, including the salaries otherwise unprovided for, not exceeding sixteen (16) mills, except as hereinafter provided, on each dollar of the taxable valuation for any one (1) year to levy such taxes as are required to be levied by special or local statutes. Provided, however, that on and after July 1, *1961,* and extending to June 30th, *1963,* the board of county commissioners is authorized in its discretion to levy an additional four (4) mills on each dollar of the taxable valuation for any one (1) year, provided, however, after that period of time the levy of sixteen (16) mills shall still be in effect."

Additional 4-mill levy—when.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

CHAPTER 206

An Act Relating to Use of Telephones, to Provide a Penalty for Failure to Relinquish a Party Line or Public Pay Telephone in an Emergency; and to Provide a Penalty for False Representation of An Emergency in Order to Use a Party Line or Public Pay Telephone.

Be it enacted by the Legislative Assembly of the State of Montana:

Penalty—failure to relinquish telephone in emergency.

Section 1. Any person who fails to relinquish a telephone party line or a public pay telephone after he has been requested to do so to permit another to place an emergency call to a fire department or police department, or for medical or spiritual aid or ambulance service, is punishable by imprisonment for not more than ten (10) days or by a fine of not more than twenty-five dollars ($25.00) or by both such imprisonment and such fine.

Defense.

Section 2. It is a defense to prosecution under section 1 of this act that the accused did not know or did not have reason to know of the emergency in question, or

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that the accused was himself using the telephone party line or public pay telephone for such an emergency call.

Penalty—false request.

Section 3. Any person who requests another to relinquish a telephone party line or a public pay telephone on the pretext that he must place an emergency call, knowing such pretext to be false, is punishable by imprisonment for not more than ten (10) days or by a fine of not more than twenty-five dollars ($25.00) or by both such imprisonment and such fine.

Telephone company to publish in directory.

Section 4. Every telephone company doing business in this state shall print a copy of sections 1, 2 and 3 of this act in each telephone directory published by it after the effective date of this act.

Approved March 7, 1961.

CHAPTER 207

An Act Relating to Leasing of State Lands; Providing That the State Board of Land Commissioners May Issue Permits or Leases for the Removal of Phosphate Deposits, by Amending Section 81-701, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 81-701, Revised Codes of Montana, 1947, is amended to read as follows:

Board may lease state land for mining nonmetallic minerals—royalty basis.

"81-701. **The board may issue leases.** Whenever there are found upon state lands to which the title is vested in the state, and which lands have not been sold by the state under certificate of purchase, or otherwise, deposits of stone, limestone, oil shale, clay, bentonite, calsite, talc, mica, ceramic, asbestos, marble, diatomite, gravel or sand, or phosphate, sodium, potash, sulphur, fluorite or barite, or any other nonmetallic minerals, but not including coal, oil or gas, valuable for building, mining or other commercial purposes, the state board of land commissioners may, in its discretion, issue to private persons permits or leases for the removal and disposition of such stone, limestone, oil shale, clay, bentonite, calsite, talc, mica, ceramic, asbestos, marble, diatomite, gravel, sand, *phosphate* or other said deposits; upon such terms and conditions as the board

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may determine; provided, however, that all such leases shall be upon a royalty basis calculated upon a gross value by weight or cubic measurement as is most favorable for the particular substance being mined or extracted from the lands, such gross value to be determined at the mine or site of operation, and the rates shall be the same that ordinarily would be charged by private owners under similar circumstances, or as in the determination of the board may be determined fair and reasonable, and the fee for issuing the lease shall be the same as for an oil and gas lease. No such lease shall be made for longer term than ten (10) years, and the board may demand a cash deposit to guarantee the payment of the royalties, or demand a surety bond, or both such cash deposit and bond, as the board may determine."

Approved March 7, 1961.

CHAPTER 208

An Act Adopting and Inserting as a New Chapter 2601 in Title 93, Revised Codes of Montana, 1947, the Uniform Reciprocal Enforcement of Support Act as Amended by the National Conference of Commissioners on Uniform State Laws in 1958; Providing Additional Remedies for Enforcement of Duties of Support; Providing for Criminal Enforcement by Extradition; Providing for Civil Enforcement Where Parties Reside in Different States or in Different Counties of Montana; Providing for Registration and Enforcement of Foreign Support Orders and Support Orders Issued in Different Counties of Montana; and Repealing Sections 1 Through 18 of Chapter 222, Laws of 1951, Codified as Chapter 901, Sections 94-901-1 Through 94-901-18, 1959 Cumulative Pocket Supplement to Volume 8, Revised Codes of Montana, 1947, and Repealing All Acts and Parts of Acts in Conflict Herewith and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause

Section 1. Title 93 of the Revised Codes of Montana, 1947, is hereby amended by incorporation therein, following chapter 2501 thereof, a new chapter to be known as chapter 2601, to read as follows:

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CHAPTER 2601
UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT

SUBCHAPTER 1 — General Provisions

Title.

Section 93-2601-1. **Short title.** This act may be cited as the uniform reciprocal enforcement of support act.

Purpose.

Section 93-2601-2. **Purposes.** The purposes of this act are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

Uniform interpretation.

Section 93-2601-3. **Uniformity of interpretation.** This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 93-2601-4. **Definitions.** In this act unless the context otherwise requires:

"State."

(a) "State" includes any state, territory or possession of the United States and the District of Columbia in which this or a substantially similar reciprocal law has been enacted.

"Initiating state."

(b) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

"Responding state."

(c) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

"Court."

(d) "Court" means the district court of any judicial district of this state and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

"Law."

(e) "Law" includes both common and statute law.

"Duty of support."

(f) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial separation, separate maintenance or otherwise.

"Obligor."

(g) "Obligor" means any person owing a duty of support.

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(h) "Obligee" means any person to whom a duty of support is owed and a state or political subdivision thereof. "Obligee."

(i) "Governor" includes any person performing the functions of governor or the executive authority of any territory covered by the provisions of this act. "Governor."

(j) "Support order" means any judgment, decree or order of support whether temporary or final, whether subject to modification, revocation or remission regardless of the kind of action in which it is entered. "Support order."

(k) "Rendering state" means any state in which a support order is originally entered. "Rendering state."

(l) "Registering court" means any court of this state in which the support order of the rendering state is registered. "Registering court."

(m) "Register" means to record in the registry of foreign support orders as required by the court. "Register."

(n) "Certification" shall be in accordance with the laws of the certifying state. "Certification."

Section 93-2601-5. **Remedies additional to those now existing.** The remedies herein provided are in addition to and not in substitution for any other remedies. Remedies additional.

Section 93-2601-6. **Extent of duties of support.** Duties of support arising under the law of this state, when applicable under section 93-2601-9, bind the obligor, present in this state, regardless of the presence or residence of the obligee. Extent—duties of support.

SUBCHAPTER II — Criminal Enforcement

Section 93-2601-7. **Interstate rendition.** The governor of this state (1) may demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state and (2) may surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of any person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the de- Interstate rendition. Extradition.

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manding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath, nor any proceedings for extradition pursuant to this action need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or other state.

Conditions—interstate rendition.

Section 93-2601-8. **Conditions of interstate rendition.** (a) Before making the demand on the governor of any other state for the surrender of a person charged in this state with the crime of failing to provide for the support of any person, the governor of this state may require any county attorney of this state to satisfy him that at least sixty (60) days prior thereto the obligee brought an action for the support under this act, or that the bringing of an action would be of no avail.

(b) When under this or a substantially similar act, a demand is made upon the governor of this state by the governor of another state for the surrender of a person charged in the other state with the crime of failing to provide support, the governor may call upon any county attorney to investigate or assist in investigating the demand, and to report to him whether any action for support has been brought under this act or would be effective.

(c) If an action for the support would be effective and no action has been brought, the governor may delay honoring the demand for a reasonable time to permit prosecution of an action for support.

(d) If an action for support has been brought and the person demanded has prevailed in that action, the governor may decline to honor the demand.

(e) If an action for support has been brought and pursuant thereto the person demanded is subject to a support order, the governor may decline to honor the demand so long as the person demanded is complying with the support order.

Choice of law.

SUBCHAPTER III — Civil Enforcement

Section 93-2601-9. **Choice of law.** Duties of support applicable under this act are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought. The ob-

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ligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

Remedies of state furnishing support.

Section 93-2601-10. **Remedies of a state or political subdivision thereof furnishing support.** Whenever the state or a political subdivision thereof furnishes support to an obligee, it has the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support.

Enforcement.

Section 93-2601-11. **How duties of support are enforced.** All duties of support, including arrearages, are enforceable by action irrespective of the relationship between the obligor and the obligee.

Jurisdiction.

Section 93-2601-12. **Jurisdiction.** Jurisdiction of all proceedings hereunder is vested in the district court.

Contents—complaint for support.

Section 93-2601-13. **Contents of complaint for support.** The complaint shall be verified and shall state the name and, so far as known to the plaintiff, the address and circumstances of the defendant and his dependents for whom support is sought and all other pertinent information. The plaintiff may include in or attach to the complaint any information which may help in locating or identifying the defendant such as a photograph of the defendant, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his finger prints, or social security number.

County attorney to represent.

Section 93-2601-14. **Officials to represent plaintiff.** When this state is acting as the responding state in any proceeding under this act, the county attorney, at the request of the court, shall represent the plaintiff. In any case where this state would be acting as the initiating state, the county attorney, at the request of the state department of public welfare or the county department of public welfare and on a showing of probable cause, shall initiate a proceeding and represent the plaintiff.

Complaint of minor.

Section 93-2601-15. **Complaint for a minor.** A complaint on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem.

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Duty of court—Montana as initiating state.

Section 93-2601-16. **Duty of court of this state as initiating state.** If the court of this state acting as an initiating state finds that the complaint sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction of the defendant or his property, it shall so certify and shall cause three copies of (1) the complaint, (2) its certificate and (3) this act to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.

Costs and fees.

Section 93-2601-17. **Costs and fees.** No plaintiff shall be required to furnish any security. A plaintiff shall be required to pay the regular fee for commencing an action as set forth in section 25-232, Revised Codes of Montana, 1947, but shall be required to pay no other fee or costs unless a court of this state acting either as an initiating or responding state finds that the complaint was filed in bad faith. A court of this state acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this state, including without limitation by enumeration, fees for filing, service of process, seizure of property, and stenographic service of both plaintiff and defendant, or either, be paid by the obligor or the county.

Jurisdiction by arrest.

Section 93-2601-18. **Jurisdiction by arrest.** When the court of this state, acting either as an initiating or responding state, has reason to believe that the defendant may flee the jurisdiction it may:

(1) as an initiating state request in its certificate that the court of the responding state obtain the body of the defendant by appropriate process if that be permissible under the law of the responding state, or

(2) as a responding state, obtain the body of the defendant by appropriate process.

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State information agency—duties.

Section 93-2601-19. **State information agency.** The state department of public welfare is hereby designated as the state information agency under this act, and it shall

(1) compile a list of the courts and their addresses in this state having jurisdiction under this act and transmit the same to the state information agency of every other state which has adopted this or a substantially similar act, and

(2) maintain a register of such lists received from other states and transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this act.

Duty of court—Montana as responding state.

Section 93-2601-20. **Duty of the court and officials of this state as responding state.**

(a) After the court of this state acting as a responding state has received from the court of the initiating state the aforesaid copies the clerk of the court shall docket the cause and notify the county attorney of his action.

County attorney to prosecute.

(b) It shall be the duty of the county attorney diligently to prosecute the case. He shall take all action necessary in accordance with the laws of this state to give the court jurisdiction of the defendant or his property and shall request the court to set a time and place for a hearing.

Further duties—court and officials.

Section 93-2601-21. **Further duties of court and officials in the responding state.**

(a) The county attorney shall, on his own initiative, use all means at his disposal to trace the defendant or his property and if, due to inaccuracies of the complaint or otherwise, the court cannot obtain jurisdiction, the county attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended complaint from the court in the initiating state.

(b) If the defendant or his property is not found in the county and the county attorney discovers by any means that the defendant or his property may be found in another county of this state or in another state he shall so

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inform the court and thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that it forward the documents to the proper court. Thereupon both the court of the other county and any court of this state receiving the documents and the county attorney have the same powers and duties under this act as if the documents had been originally addressed to them. When the clerk of a court of this state retransmits documents to another court, he shall notify forthwith the court from which the documents came.

(c) If the county attorney has no information as to the whereabouts of the obligor or his property he shall so inform the initiating court.

(d) If the defendant or his property is found in the county and the county attorney discovers that the duty of support is based on a support order issued by a court of another county of this state, he shall obtain from the court of the other county a certified copy of the support order and register it in the local court as provided in section 93-2601-34.

Procedure.

Section 93-2601-22. **Procedure.** The court shall conduct proceedings under this act in the manner prescribed by law for an action for enforcement of the type of duty of support claimed.

Hearing.

Section 93-2601-23. **Hearing and determination.** If the plaintiff is absent from the responding state and the defendant presents evidence which constitutes a defense, the court shall continue the case for further hearing and the submission of evidence by both parties.

Communications not privileged.

Section 93-2601-24. **Evidence of husband and wife.** Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this act. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

Court may order support—responding state.

Section 93-2601-25. **Order of support.** If the court of the responding state finds a duty of support, it may order the defendant to furnish support or reimbursement therefor and subject the property of the defendant

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to such order. The court and county attorney of any county where the obligor is present or has property have the same powers and duties to enforce the order as have those of the county where it was first issued. If enforcement is impossible or cannot be completed in the county where the order was issued, the county attorney shall transmit a certified copy of the order to the county attorney of any county where it appears that procedures to enforce payment of the amount due would be effective. The county attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.

Responding state shall transmit copies of order to initiating state.

Section 93-2601-26. **Responding state to transmit copies to initiating state.** The court of this state when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or for reimbursement therefor.

Additional powers of court—initiating state.

Section 93-2601-27. **Additional powers of court.** In addition to the foregoing powers, the court of this state when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular

(a) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant.

(b) To require the defendant to make payments at specified intervals to the clerk of the court and to report personally to such clerk at such times as may be deemed necessary.

(c) To punish the defendant who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

Additional duties of court—responding state.

Section 93-2601-28. **Additional duties of the court of this state when acting as a responding state.** The court of this state when acting as a responding state shall have the following duties which may be carried out through the clerk of the court:

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(a) Upon the receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiaing state, and

(b) Upon request, to furnish to the court of the initiating state a certified statement of all payments made by the defendant.

Additional duties of court—initiating state.

Section 93-2601-29. **Additional duty of the court of this state when acting as an initiating state.** The court of this state when acting as an initiating state shall have the duty which may be carried out through the clerk of the court to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state.

Proceedings may not be stayed.

Section 93-2601-30. **Proceedings not to be stayed.** No proceeding under this act shall be stayed because of the existence of a pending action for divorce, separation, annulment, dissolution, habeas corpus or custody proceeding.

Application of payments.

Section 93-2601-31. **Application of payments.** No order of support issued by a court of this state when acting as a responding state shall supersede any other order of support but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.

Effect—participation.

Section 93-2601-32. **Effect of participation in proceeding.** Participation in any proceeding under this act shall not confer upon any court of jurisdiction of any of the parties thereto in any other proceeding.

Inter-county application.

Section 93-2601-33. **Inter-county application.** This act is applicable when both the plaintiff and the defendant are in this state but in different counties. If the court of the county in which the complaint is filed finds that the complaint sets forth facts from which it may be determined that the defendant owes a duty of support and finds that a court of another county in this state may obtain jurisdiction of the defendant or his property, the clerk of the court shall send three copies of the complaint and a certification of the findings to the court of the county in which the defendant or his property is found. The clerk of the court of the county receiving these copies

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shall notify the county attorney of their receipt. The county attorney and the court in the county to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for the state as a responding state.

SUBCHAPTER IV. — Registration of Support Orders

Registration—filing certified copy of support order.

Section 93-2601-34. **Support orders issued in different counties of this state.** Any support order issued by a court of this state may be registered in any other court of this state by filing in such other court a certified copy thereof, and such order when so registered shall have the same effect and may be enforced as if originally entered in the court in which so registered, including the power to punish for contempt.

Additional remedies—obligee.

Section 93-2601-35. **Foreign support orders.** If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

Registration—foreign support order.

Section 93-2601-36. **Registration.** The obligee may register the foreign support order in a court of this state in the manner, with the effect and for the purposes herein provided.

Registry.

Section 93-2601-37. **Registry of foreign support orders.** The clerk of the court shall maintain a registry of foreign support orders in which he shall record foreign support orders.

Petition for registration.

Section 93-2601-38. **Petition for registration.** The petition for registration shall be verified and shall set forth the amount remaining unpaid and a list of any other states in which the support order is registered and shall have attached to it a certified copy of the support order with all modifications thereof. The foreign support order is registered upon the filing of the petition subject only to subsequent order of confirmation.

Procedure—jurisdiction.

Section 93-2601-39. **Jurisdiction and procedure.** The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to a defendant in an action on a foreign judgment. If the obligor defaults, the court shall enter an order confirming the registered support order and determining the amounts

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remaining unpaid. If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid.

Effect and enforcement.

Section 93-2601-40. **Effect and enforcement.** The support order as confirmed shall have the same effect and may be enforced as if originally entered in the court of this state. The procedures for the enforcement thereof shall be as in civil cases, including the power to punish the defendant for contempt as in the case of other orders for payment of alimony, maintenance or support entered in this state.

Severability clause.

Section 2. **Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Repealing clause.

Section 3. **Repealer.** Sections 1 through 18 of Chapter 222, laws of 1951, codified as chapter 901, sections 94-901-1 through 94-901-18, 1959 cumulative pocket supplement to volume 8, Revised Codes of Montana, 1947, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Effective immediately.

Section 4. **Time of taking effect.** This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1961.

CHAPTER 209

An Act to Allow the Board of Trustees of Any Organized and Legal School District, May, in Their Discretion, Request the Use of Federal Reimbursement of Money in Lieu of Taxes to School Districts to be Allocated to the School District Lunch Fund for Eligible Indigent Enrolled Pupils Who Are Part of the Program; Providing for the Certification of Federally Connected Indigent Pupils by the County Department of Welfare, County Superintendent of Schools, County Health Department and School District Authorized Representa-

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tive, and the Board of Trustees, Prescribing the Basis for Allocation of Federal Reimbursement of Funds, and the Allocation Thereof by the County Treasurer; Providing for An Effective Date and A Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Board may request federal reimbursement—school lunch program.

Section 1. The board of trustees of any organized and legal school district in the State of Montana may, in their discretion request the allocation of a portion of its funds from the federal reimbursement in lieu of taxes to the school lunch budget to provide school lunches for federally connected indigent enrolled school pupils who are a part of the programs when such indigent pupils are declared eligible in the following manner:

Eligibility—indigent pupils.

(a) The indigency must be certified by the county department of welfare, assisted by a committee of three (3) composed of the county superintendent of schools, the county health department and a school district authorized representative and the board of trustees.

(b) The amount allocated to the school district lunch budget shall be based on certified claims filed with the county superintendent of schools by the board of trustees of the school district and approved by his office as a legal claim complying with this act and certifying: (1) that the names of the children have been approved as indigent in subparagraph (a) of this act. (2) The number of days that school district has provided free lunch to each indigent child. (3) The price charged the non-indigent pupils per day for lunch. (4) The claim amounts to the total number of days in item two (2) multiplied by the price per meal in item three (3) of this act.

(c) The county treasurer must allocate a portion of the federal reimbursement in lieu of taxes to the school district lunch fund to cover the amount of this approved claim.

Effective immediately.

Section 2. Upon passage, this act shall be in full force and effect.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

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CHAPTER 210

An Act to Amend Section 16-2028, Revised Codes of Montana, 1947, Relating to County Bond Issues, to Provide That Authority to Issue Bonds as Previously Granted by a Bond Election May be Rescinded if the Bonds Have Not Been Sold Within Three Years of the Date of the Election and If No Vested Rights Have Accrued Under the Bond Issue.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-2028 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Canvass—bonding election.

"16-2028. If the bonding election be held at the same time as a general election, then the returns shall be canvassed at the same time as the returns from such general election; but if the bonding election is a special election, then the board of county commissioners shall meet within ten (10) days after the date of holding such special election and canvass the returns. If it is found that at such election forty per centum (40%) or more, of the qualified electors entitled to vote at such election voted on such question, and that a majority of such votes were cast in favor of the issuing of such bonds, the board of county commissioners shall, at a regular or special meeting held within thirty (30) days thereafter, pass and adopt a resolution providing for the issuance of such bonds. Such resolution shall recite the purpose for which such bonds are to be issued, the amount thereof, the maximum rate of interest the bonds may bear, the date they shall bear, the period of time through which they shall be payable, the optional provisions, if any; and provide for the manner of the execution of the same. It shall provide that preference shall be given amortization bonds but shall fix the denomination of serial bonds in case it shall be found advantageous to issue bonds in that form, and shall adopt a form of notice of the sale of the bonds.

Resolution—issuance of bonds.

"The board may, in its discretion, provide that such bonds may be issued and sold in two or more series or installments.

Board may rescind—when.

"Provided, however, that if none of said bonds have been sold and issued within three years from the date of

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the bonding election, and no vested rights have accrued thereunder, the board of county commissioners may rescind the authority to sell and issue such bonds by the passage and adoption of a resolution wherein is recited the reason for such recission of authority.''

Approved March 7, 1961.

CHAPTER 211

An Act to Amend Section 31-125, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 37, Laws of 1951, as Amended by Section 1, Chapter 79, Laws of 1957, and as Amended by Section 1, Chapter 51, Laws of 1959, Relating to Licensing of Operators and Chauffeurs; Requiring the Surrender of All Drivers License Upon Issuance of Montana License; Requiring All Surrendered Licenses to be Forwarded to Issuing Department; Prohibiting Persons From Possessing More Than One (1) Drivers License; Providing That All Acts or Parts of Acts in Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-125, Revised Codes of Montana, 1947, as amended by section 1, chapter 37, laws of 1951, as amended by section 1, chapter 79, laws of 1957, and as amended by section 1, chapter 51, laws of 1959, be, and the same is hereby amended to read as follows:

Operators and chauffeurs must be licensed.

''31-125. **Operators and chauffeurs must be licensed.** (a) No person, except those hereinafter expressly exempted, under section 31-126, Revised Codes of Montana, 1947, as amended by section 1, chapter 95, laws of 1955, shall drive any motor vehicle upon a highway in this state unless such person has a valid Montana license as an operator or chauffeur under the provisions of this act. *No person shall receive an operator's or chauffeur's license unless and until he surrenders to the board all valid operators' and chauffeurs' licenses in his possession issued to him by any other jurisdiction. All surrendered licenses shall be returned by the board to the issuing department together with information that licensee is*

Surrender of foreign license.

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now licensed in this state. No person shall be permitted to have more than one (1) valid operator's or chauffeur's license at any time. No person shall drive a motor vehicle as a chauffeur unless he holds a valid chauffeur's license. No person shall receive a chauffeur's license unless and until he surrenders to the board any operator's license issued to him or an affidavit that he does not possess an operator's license.

Chauffeur's license in lieu of operator's license.

"(b) Any person holding a valid chauffeur's license hereunder need not procure an operator's license.

Local license or permit.

"(c) Whenever a city or town requires an operator or chauffeur to obtain a local driving license or permit, such a license or permit shall not be issued unless applicant therefore presents a state driver's license valid under the provisions of this act.

90-day resident.

"(d) Provided further, that any person who has resided in this state for a period exceeding ninety (90) days is considered to be a resident for the purpose of being licensed to drive a motor vehicle and must thereafter be licensed to drive motor vehicles under the laws of this state."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

CHAPTER 212

An Act to Amend Section 69-103, Revised Codes of Montana, 1947, to Provide That the Executive Officer of the Board of Health Shall Receive Such Annual Salary As May be Fixed by the Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-103, Revised Codes of Montana, 1947, is amended to read as follows:

Office created—executive officer of state board of health—qualifications.

"69-103. (a) The administrative and executive head for the board shall be its executive officer, and the office of executive officer of the state board of health of the State of Montana is hereby created. The executive officer shall be appointed by the board, and shall have the

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following qualifications: he shall have a degree of doctor of medicine; he shall have successfully completed at least one (1) year of graduate study in an approved school of public health, and he shall have had at least two (2) years experience in administrative practice as a full time public health officer; he shall be eligible for license by the board of medical examiners of the State of Montana, and he must obtain a license from such board not later than six (6) months after his appointment in one or the other of the methods prescribed by the laws of this state. Provided, that if no such qualified person is available for appointment as executive officer, the board in its discretion may appoint, for a period of not over one (1) year, a doctor of medicine regularly licensed in Montana, who has had at least five (5) years of active practice in that profession and who shall not be eligible for reappointment. The executive officer shall receive such annual salary as may be fixed by the legislative assembly; shall be allowed traveling and subsistence expenses incurred in the performance of his official duties when absent from his place of residence; shall be custodian of all property of the board, and when acting as secretary of the board, custodian of its records, files and minute book, and shall perform all the duties of the secretary of the board as prescribed by law, when acting as secretary by appointment and order of the board; he shall devote his entire time to his official duties and shall not engage in the private practice of medicine or in any other occupation; the executive officer shall be subordinate to the board in the performance of his duties under this act.

Interim appointment provided.

Salary and duties.

"(b) The board is authorized, with the approval of the state board of examiners, to enter into a formal, written contract to secure the services of its executive officer for a definite term of years, not exceeding ten (10) in number, and the reciprocal obligations of the board and such person, including *the compensation fixed by the legislative assembly* shall be defined and stated in such written contract; or the board may appoint its executive officer for a definite term of not to exceed ten (10) years. In either event, the executive officer may be removed during his term only after hearing by the board on at least twenty (20) days' notice, after verified charges preferred against him have been sustained by preponderance of the evidence.

Written contract authorized.

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Management.

"(c) Each division and section of the board shall be under the management of a head, responsible to the executive officer, and such heads and all other subordinate personnel of the division shall be appointed by the executive officer by and with the consent of the board, under the provisions and principle of a merit system of personnel administration. The rules, regulations and compensation schedules for which the board is hereby authorized and directed to adopt, shall in all respects be in conformity to the merit system established by law for personnel of the government of the State of Montana.

Appropriation conference.

"(d) Before presenting a request for appropriation from the legislative assembly the board shall confer with the head of each section or division."

Approved March 7, 1961.

CHAPTER 213

An Act to Amend Section 60-132, Revised Codes of Montana, 1947, Relating to Rules and Regulations, Hearings, Notice of Hearings and Emergency Orders of the Oil and Gas Conservation Commission of the State of Montana; Amending Sub-section D. of Said Section Relative to the Manner in Which the Commission Shall Give Notice of Hearing; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 60-132, Revised Codes of Montana, 1947, be, and the same is, amended to read as follows:

Commission shall regulate.

"60-132. **Rules and regulations — Hearings — Notice of Hearings — Emergency orders.** A. The commission shall prescribe rules and regulations governing the practice and procedure before the commission.

Public hearing.

"B. No rule, regulation or order, or amendment thereof, except in an emergency, shall be made by the commission without a public hearing upon at least ten (10) days' notice. The public hearing shall be held at such time and place as may be prescribed by the commission, and any interested person shall be entitled to be heard.

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"C. When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without advance notice or hearing, which shall be effective upon promulgation. No emergency order shall remain effective more than fifteen (15) days. Emergency orders.

"D. *Any notice required by this act shall be given by the commisison and such notice shall be given as follows:* Notice—how and when given.

"(1) In all cases where a complaint has been made by the commission or by any person that any provision of this act, or any rule, regulation or order of the commission, is being or has been violated, notice of the hearing to be held on such complaint shall be given to the interested persons by one of the following methods:

"(a) Personal service or service by publication in the manner as is now or shall hereafter be provided by law for the service of process in the civil action in the courts of this state; or

"(b) by certified or registered United States mail, with full first class postage prepaid thereon and addressed to the last known mailing address of the person or persons affected.

"(2) In all other cases by publication in one or more issues of a newspaper in general circulation in the state capitol and a newspaper of general circulation in the county where the land or some part thereon is situated, and it may also cause publication to be made in a trade journal or bulletin or general circulation in the oil and gas industry in the state. Publication.

"The date of service shall be the date on which service was made in the case of personal service; the date of last publication in the case of service of publication under sub-section (a) of paragraph (1) above; the date of first publication in the case of notice by publication under the provisions of paragraph (2) above; and the date of mailing in the case of notice by mail under sub-section (b) of paragraph (1) above. Date of service.

"The notice shall be issued in the name of the State of Montana, shall be signed by the chairman or the executive secretary of the commission, shall specify the style and number of the proceeding, and the time and place

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of hearing, and shall briefly state the purpose of the proceeding.

Personal service.

"In cases of personal service such service may be made by any officer or person authorized by law to serve process, or by any agent of the commission, in the same manner as is now or may hereafter be provided by law for the service of process in a civil action in the district courts of this state.

Proof of personal service.

"Proof of personal service shall be made by the affidavit of the officer, person or agent of the commission making such personal service. Proof of service by publication shall be made by the affidavit of the printer or publisher of the newspaper, trade journal, or bulletin in which the notice is published, or by a foreman or principal clerk of such newspaper, bulletin or trade journal. Proof of service by mailing shall be made by the affidavit of the chairman or executive secretary of the commission.

"In the case where personal service or services by publication is made as provided in section (a) of paragraph (1) above, the secretary of the commission shall for such purposes, be vested with the same power and charged with the same duties as the clerk of the district courts of this state.

Public record of rules, regulations and orders.

"E. All rules, regulations and orders issued by the commission shall be in writing, shall be entered in full in books to be kept by the commission for that purpose, shall be indexed, and shall be public records open for inspection at all times during reasonable office hours. Except for orders establishing or changing rules of practice and procedure, all orders made and published by the commission shall include and be based upon written findings of fact entered and indexed as public records in the manner hereinabove provided. A copy of any rule, regulation, or order certified by the commission or its secretary shall be received in evidence in all courts of this state with the same effect as the original.

Commission may act on own motion.

"F. Except as otherwise in this act provided, the commission may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, the commission shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be

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given. The hearing shall be held without undue delay after the filing of the petition. The commission shall enter its order within thirty (30) days after the hearing."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 7, 1961.

CHAPTER 214

An Act Authorizing the State Fish and Game Commission to Issue Special Nonresident Antelope and Special Nonresident Deer Licenses, Fixing the Fees, and Powers and Duties Under Such Licenses, and Providing That All Acts and Parts of Acts in Conflict Herewith Are Hereby Repealed, and Containing an Expiration Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state fish and game commission may issue special nonresident antelope licenses and special nonresident deer licenses as provided for in subsection 15 of section 26-104, Revised Codes of Montana, 1947, as amended. Such special licenses will be valid only for the area designated in the license, and shall expire annually on the thirtieth (30th) day of April. In areas where ten (10) or more written complaints from persons in the area involved, relating to the issuance of special nonresident deer and antelope permits, have been received by the fish and game department, a hearing at the county seat nearest to the area concerned must be held by representatives of the fish and game department where public protests will be heard. Such written complaints must be received within thirty (30) days after first announcement of seasons by the fish and game commission on or before the first day of August. Notice of such hearing will be published in local newspapers and radio stations in the area concerned at least ten (10) days prior to the date of the hearing. The fee for a special nonresident deer license shall be twenty dollars ($20.00) and the fee for a special nonresident antelope license shall be twenty dollars ($20.00). Not more than one (1) special nonresident deer license, and one (1) special nonresident antelope

Special nonresident hunting licenses may be issued.

Written complaints.

Hearing.

Notice of hearing.

Fees.

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Tagging. Shipping permit.

license shall be issued in any one (1) year to a nonresident. The tagging of game carcasses, as required by law, shall apply to all persons who purchased the special nonresident licenses herein provided. There shall be attached to each special nonresident antelope or deer license a permit which will authorize the holder thereof to ship or transport out of the state one (1) carcass of an animal for which such license was issued.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective until April 30, 1963.

Section 3. This act shall remain in full force and effect until April 30, 1963.

Approved March 7, 1961.

CHAPTER 215

An Act to Amend Section 75-3410, Revised Codes of Montana, 1947, Relating to Determination of Residences for Purposes of School Transportation; Containing a Repealing Clause; and Fixing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-3410, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Determining residence— when.

"75-3410. **Determining residence when in dispute.** The members of the board of trustees and the county superintendent of schools shall investigate and determine residence whenever a disagreement arises over eligibility to receive transportation aid. *In determining such residence for transportation purposes the board of trustees and the county superintendent of schools shall use the same criteria as must be used to determine residence for tuition purposes in accordance with the provisions of sections 75-1630, 75-4230 and 83-303; provided that, in any year when any district or county has been determined to be responsible for paying tuition for any child in accordance with the provisions of sections 75-1630, 75-4230 and section 83-303, the district or county determined as the residence of the child for tuition purposes shall be the residence of such*

Residence for tuition and transportation.

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child for transportation purposes. Provided, that, anyone feeling dissatisfied with the decision of the trustees and county superintendent of schools shall have the right to appeal to the state superintendent of public instruction."

Appeal.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Effective immediately.

Approved March 7, 1961.

CHAPTER 216

An Act Relating to and Providing for the Acquisition by Eminent Domain of Interests in the Surface of Property to the Extent Necessary to Mine and Extract Ores, Metals or Minerals by the Owner Thereof When the Same Are Located Beneath or Upon the Surface, the Title to Which is Vested in Others, and to Amend Sections 93-9902 and 93-9903 of the Revised Codes of Montana, 1947, as Amended by the Laws of Montana of 1953 and 1955, Relating to the Right of Eminent Domain, and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 93-9902 of the Revised Codes of Montana, 1947, as amended by the laws of Montana of 1953, and the laws of Montana of 1955, be and the same is hereby amended to read as follows:

Amending clause.

"93-9902. **What are public uses.** Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public uses:

Public uses declared—eminent domain.

"1. All public uses authorized by the government of the United States.

"2. Public buildings and grounds for the use of the state, and all other public uses authorized by the legislative assembly of the state.

"3. Public buildings and grounds for the use of any county, city, or town, or school districts; canals, aque-

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ducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of any county, city, or town; raising the banks of streams, removing obstructions therefrom, and widening, deepening, or straightening their channels; roads, streets, and alleys, and all other public uses for the benefit of any county, city, or town, or the inhabitants thereof, which may be authorized by the legislative assembly; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes or ordinances by which the same may be authorized.

"4. Wharves, docks, piers, chutes, booms, ferries, bridges, of all kinds, private roads, plank and turnpike roads, railroads, canals, ditches, flumes, aqueducts, and pipes for public transportation, supplying mines, mills, and smelters for the reduction of ores and farming neighborhoods with water, and drainage and reclaiming lands, and for floating logs and lumber on streams not navigable, and sites for reservoirs, necessary for collecting and storing water.

"5. Roads, tunnels, ditches, flumes, pipes, and dumping places for working mines, mills, or smelters for the reduction of ores; also outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines, mills and smelters for the reduction of ores, also an occupancy in common by the owners or the possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of ores, and sites for reservoirs necessary for collecting and storing water.

"6. Private roads leading from highways to residences or farms.

"7. Telephone or electric light lines.

"8. Telegraph lines.

"9. Sewerage of any city, county, or town, or any subdivision thereof, whether incorporated or unincorporated, or of any settlement consisting of not less than ten (10) families, or of any public buildings belonging to the state, or to any college or university.

"10. Tramway lines.

"11. Electric power lines.

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"12. Logging railways.

"13. Temporary logging roads and banking grounds for the transportation of logs and timber products to public streams, lakes, mills, railroads, or highways, for such time as the court or judge may determine; provided, the grounds of state institutions be excepted.

"14. Underground reservoirs suitable for storage of natural gas.

"15. To mine and extract ores, metals or minerals owned by the plaintiff located beneath or upon the surface of property where the title to said surface vests in others."

Amending clause.

Section 2. That section 93-9903 of the Revised Codes of Montana, 1947, as amended by the laws of Montana of 1953 and the laws of Montana of 1955, be and the same is hereby amended to read as follows:

What estates in lands may be acquired by condemnation.

"93-9903. **What estates in lands may be acquired by condemnation.** The following is a classification of the estates and rights in lands subject to be taken for the public use:

"1. Such estate or rights as may be necessary up to and including a fee simple, when taken for public buildings or grounds, or for permanent buildings, for reservoirs or dams and permanent flooding occasioned thereby, or for an outlet for a flow, or a place for the deposit of debris or tailings of a mine, *or for the mining and extracting of ores, metals, or minerals when the same are owned by the plaintiff but located beneath or upon the surface of property where the title to said surface vests in others,* or for the underground storage of natural gas by a natural gas public utility as defined in this act. When the appropriation is for the underground storage of natural gas, all of the right, title, interest and estate in the real property and in the subsand stratum, formation or reservoir so appropriated shall be determinable and for all purposes terminate upon abandonment or upon cessation for the period of one year of the use for which the same was appropriated and thereupon, the ownership of the residue of natural gas therein remaining shall likewise vest in the then owners of such reservoir space.

"2. An easement, when taken for any other use.

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"3. The right of entry upon and occupation of land, and the right to take therefrom such earth, gravel, stones, trees, and timber as may be necessary for some public use."

Severability clause.

Section 3. **Constitutionality.** If any part or parts of this act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act. The legislature hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional.

Repealing clause.

Section 4. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

CHAPTER 217

An Act to Amend Section 11-403, Revised Codes of Montana, 1947, as Amended by Chapter 238 of the Session Laws of 1959, Relating to the Extension of Boundaries of Cities; Providing the Procedure for Such Extension by Cities of the First Class; Providing That City Councils of Cities of the First Class May Not, without Petition, Consider or Act Upon Any Resolution of Annexation Within One Year After the Disapproval of a Prior Resolution Relating to the Same Territory or Any Portion Thereof; Repealing All Acts and Parts of Acts in Conflict Herewith and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-403 of the Revised Codes of Montana, 1947, as amended by chapter 238 of the session laws of 1959, be, and the same is hereby amended to read as follows:

Cities or towns of first class—extension of boundaries.

"11-403. (4978) **Extension of boundaries to include contiguous platted tracts or other parcels of land.** (1) Cities or towns of the first class. Any tracts or parcels of land, which have been or may hereafter be platted into lots or blocks, streets, and alleys, and the map or plat thereof filed in the office of the county clerk and recorder of the county in which the same are situated, or any unplatted land that has been surveyed and for which

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a certificate of survey has been filed, as provided in these codes, and which platted or unplatted land shall be contiguous to any incorporated city of the first class, may be embraced within the corporate limits thereof, and the boundaries of such city of the first class extended so as to include the same in the following manner: When, in the judgment of any city council of a city of the first class, expressed by a resolution duly and regularly passed and adopted, it will be to the best interest of such city and the inhabitants of any contiguous platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, that the boundaries of such city shall be extended, so as to include the same within the corporate limits thereof, the city clerk of such city shall forthwith cause to be published in the newspaper published nearest such platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed, and that for a period of twenty days after the first publication of such notice, such city clerk will receive expressions of approval or disapproval, in writing, of the proposed extensions of the boundaries of such city of the first class, from resident freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city council of such city of the first class after the expiration of said twenty days, lay before the same all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city of the first class shall be extended so as to embrace and include such platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed, the time when the same shall go into effect to be fixed by such resolution; *provided however that land used for industrial or manufacturing purposes shall not be included in such city under the provisions of this section without the consent in writing of the owners of such land, and further* provided, that such resolution shall not be adopted by such council if disapproved, in writing, by a majority of the resident freeholders, if any, of the territory proposed to be embraced *and no further resolutions relating to the*

Procedure by resolution.

Notice.

Consent of owners.

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Limitation after disapproval.

annexation of said territory or any portion thereof may be considered or acted upon by the council on its own iniative and without petition, for a period of one year from the date of disapproval.

Exempt land.

"Provided also, that cities of the first class may include as part of such city any platted or unplatted tract or parcel of land that is wholly surrounded by such city upon passing a resolution advertising and upon passing a further resolution or following such advertising, all in the manner aforesaid, and such land shall be annexed, if so resolved, whether or not a majority of the resident freeholders, if any, of the land to be annexed object; provided, however, that land used for agricultural, mining, smelting, refining, transportation, recreational area, or any industrial or manufacturing purpose or for the purpose of maintaining or operating a golf or country club, an athletic field or aircraft landing field, a cemetery or a place for public or private outdoor entertainment or any purpose incident thereto, shall not be annexed under this provision.

Cities and towns of second and third class— extension of boundaries.

"(2) Cities and towns of the second and third class. Any tracts or parcels of land, which shall be contiguous to any incorporated cities or towns of the second and third class, may be embraced within the corporate limits thereof and the boundaries of such cities or towns of the second and third class extended so as to include the same

Procedure by resolution.

in the following manner: When, in the judgment of any such city or town council, expressed by resolution duly and regularly passed and adopted, it will be to the best interest of such city, or town and the inhabitants thereof, and of the inhabitants of any contiguous tracts or parcels of land, as aforesaid, that the boundaries of such city or town shall be extended, so as to include the same within the corporate limits thereof, the city or town clerk of such city or town shall forthwith notify in writing all property

Notice.

holders within the boundaries of the territory proposed to be embraced, and cause to be published in the newspaper published nearest such tracts or parcels of land, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed and that for a period of twenty days after the first publication of such notice, such city or town clerk will receive expressions of approval or dis-

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approval, in writing, of the proposed extensions of the boundaries of such city or town, from freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city or town council after the expiration of said twenty days, lay before the same all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city or town of the second or third class, shall be extended so as to embrace and include such tracts or parcels of land, the time when the same shall go into effect to be fixed by such resolution; provided, that such resolution shall not be adopted by such council, if disapproved, in writing, by a majority of the freeholders of the territory proposed to be embraced.

Disapproval.

"(3) Whenever two or more adjacent tracts taken as a whole shall adjoin the city, they may be included in one resolution under subdivision (2) hereof, although one or more of said tracts taken alone may not be adjacent to the corporate limits as then existing."

Adjacent tracts—one resolution.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 7, 1961.

CHAPTER 218

An Act Amending Section 93-901, Revised Codes of Montana, 1947, Relating to the Disqualification of Judicial Officers; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 93-901, Revised Codes of Montana, 1947, be amended to read as follows:

Amending clause.

"93-901. (8868) **Cases in which judge may be disqualified — Calling in another judge.** Any justice, judge, or justice of the peace must not sit or act as such in any action or proceeding:

Cases in which judge may be disqualified.

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"1. To which he is a party, or in which he is interested;

"2. When he is related to either party by consanguinity or affinity within the sixth degree, computed according to the rules of law;

"3. When he has been attorney or counsel for either party in the action or proceeding, or when he rendered or made the judgment, order, or decision appealed from;

"4. When either party makes and files an affidavit as hereinafter provided, that he has reason to believe, and does believe, he cannot have a fair and impartial hearing or trial before a district judge by reason of the bias or prejudice of such judge. Such affidavit may be made by any party to an action, motion, or proceeding, personally, or by his attorney or agent, and shall be filed with the clerk of the district court in which the same may be pending. *In any judicial district having only one judge the affidavit of disqualification with reference to any action or proceeding to be tried before a jury must be filed at least one day before the day appointed or fixed by the court for setting the trial calendar; provided, however, this limitation shall not apply unless notice of such setting date shall be given to all parties by the clerk of the district court at least fifteen (15) days prior thereto. In all other cases the affidavit must be filed* at least five days before the day appointed or fixed for the hearing or trial of any such action, motion, or proceeding (providing such party shall have had notice of the hearing of such action, motion, or proceeding for at least the period of five days and in case he shall not have had notice for such length of time, he shall file such affidavit immediately upon receiving such notice). Upon the filing of the affidavit, the judge as to whom said disqualification is averred shall be without authority to act further in the action, motion, or proceeding, but the provisions of this section do not apply to the arrangement of the calendar, the regulation of the order of business, the power of transferring the action or proceeding to some other court, nor to the power of calling in another district judge to sit and act in such action or proceeding, providing that no judge shall so arrange the calendar as to defeat the purposes of this section. No more than two judges can be disqualified for bias or prejudice, in said action or proceeding, at the

Time for filing disqualification.

Two disqualifications allowed each party.

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instance of the plaintiff, and no more than two at the instance of the defendant, in said action or proceeding, and this limitation shall apply however many parties or persons in interest may be plaintiffs or defendants in such action or proceeding. If there be more than one judge in any judicial district in which said affidavit is made and filed, upon the first disqualification of a judge in the cause, another judge, residing in the judicial district wherein the affidavit is made and filed, must be called in to preside in such action, motion, or proceeding; and upon the second or any subsequent disqualification of a judge in the cause, a district judge of another judicial district of the state must be called in to preside in such action, motion, or proceeding, or the action, motion, or proceeding transferred to a district judge of another judicial district of the state; when another judge has assumed jurisdiction of an action, motion, or proceeding, the clerk of the district court in which the same was pending, shall at once notify the parties or their attorneys of record in the same, either personally or by registered mail, of the name of the judge called in, or to whom such action, motion, or proceeding was transferred. Such second or subsequent affidavit of disqualification shall be filed with the clerk of the district court in which such action, motion or proceeding may be pending within three days after the party or his attorney of record, filing such affidavit, has received notice as to the judge assuming jurisdiction of such action, motion, or proceeding."

Calling in another judge.

Notice.

Section 2. All acts and parts of acts in conflict herewith are hereby expressly repealed.

Repealing clause.

Approved March 7, 1961.

CHAPTER 219

An Act to Amend Section 3 of Chapter 285, Session Laws of Montana, of 1959, Designated as Section 69-3504 of the 1959 Cumulative Pocket Supplement, of Replacement Volume 4, of the Revised Codes of Montana, of 1947, Relating to the Rules and Regulations for Numbering and Registering Motorboats and Vessels in the State of Montana by the Montana State Fish and Game Department; Providing That the Application for a

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Number for the Motorboat or Vessel Shall be Accompanied by a Current Tax Certificate of Personal Property, Showing Payment Thereof for the Current Year on Said Boat or Vessel; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 3 of chapter 285, session laws of Montana, of 1959, designated as section 69-3504 of the 1959 cumulative pocket supplement, of replacement volume 4, of the Revised Codes of Montana, of 1947, be, and the same is hereby amended to read as follows:

Application and fee—boat identification number.

"69-3504. **Identification number.** (a) The owner of each motor boat or vessel requiring numbering by this state shall file an application for number, *accompanied by a certificate of tax of personal property showing payment of tax on the motorboat or vessel for the current year,* with the board or its designated representative, on forms approved by the board. The application shall be signed by the owner of the motorboat or vessel, and shall be accompanied by a fee of three ($3.00) dollars. Upon receipt of the application in approved form *and certificate hereinabove referred to,* the board shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat or vessel and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat or vessel, the identification number in such manner as may be prescribed by rules and regulations of the board, in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat or vessel for which issued, whenever such motorboat or vessel is in operation.

Certificate of number.

Boat must bear number.

Manufacturer or dealer boats.

"(b) The numbering requirements of this act shall apply to motorboats or vessels operated by manufacturers or dealers except that the description of the motorboat or vessel shall be omitted from the certificate of number and such number shall be permitted to be transferred from one vessel to another. In lieu of the descriptive material on said certificate of number the word 'manufacturer' or 'dealer' as appropriate, will appear on said

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certificate. The manufacturer or dealer may have the number awarded printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to a vessel to be demonstrated or tested so long as the number is exhibited so as to in all other respects meet the requirements of act relating to display of numbers.

Present numbers shall be recorded.

"(c) The owner of any motorboat or vessel already covered by a number in full force and effect, which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state, shall record the number prior to operating the motorboat or vessel on the waters of this state in excess of the ninety day reciprocity period provided for in section 6 (1) (69-3506 (1)) of this act. Such recordation shall be in the manner and pursuant to the procedure required for the award of number under subsection (a) of this section, except that no additional or substitute number shall be issued.

Change of ownership.

"(d) Should the ownership of a motorboat or vessel change, a new application form with fee shall be filed with the board and a new certificate of number shall be awarded in the same manner as provided for in an original award of number, provided further that the number assigned may be determined by the board.

Number system to conform.

"(e) In the event that an agency of the United States government shall have in force an over-all system of identification numbering for motorboats or vessels within the United States, the numbering system employed pursuant to this act by the board shall be in conformity therewith.

Award of certificates—authorized agent.

"(f) The board may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this act and with any rules and regulations of the board shall be valid as if awarded directly by the board.

Board shall submit copy to registrar of motor vehicles.

"(g) All records of the board made or kept pursuant to this act shall be public records; provided that the board shall submit to the registrar of motor vehicles of this state, correct copies of all certificates of registration

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issued pursuant to this act; and provided further that said registrar shall make said records immediately available to all law enforcement offices of this state.

Expiration.

"(h) Every certificate of number awarded pursuant to this act shall continue in full force and effect for a period not to exceed three years, unless sooner terminated or discontinued in accordance with the provisions of this act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same. The board shall notify each owner of a registered vessel of expiration of registration a reasonable time prior to expiration of registration.

Day of lapse.

"(i) The board shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this act.

Notice on transfer of ownership.

"(j) In event of transfer of ownership, the purchaser shall furnish the board notice of the acquisition of all or any part of his interest other than the creation of a security interest in a motorboat or vessel numbered in this state pursuant to subsections (a) and (b) of this section, or of the destruction or abandonment of such motorboat or vessel, within reasonable time thereof. Such transfer, destruction or abandonment shall terminate the certificate of number for such motorboat or vessel except that in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat or vessel, such transfer shall not terminate the certificate of number.

Notice of change of address.

"(k) Any holder of a certificate of number shall notify the board within reasonable time if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the board with his new address. The board may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or the alteration of an outstanding certificate to show the new address of the holder.

No display of other numbers.

"(l) No number other than the number awarded to a motorboat or vessel or granted reciprocity pursuant to this act, shall be painted, attached or otherwise displayed on either side of the bow of such motorboat or vessel."

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby expressly repealed.

Approved March 7, 1961.

CHAPTER 220

An Act to Amend Section 60-202, Revised Codes of Montana, 1947, as Amended by Section 3, Chapter 131, Session Laws of Montana, of 1955, and as Amended by Section 2, Chapter 96, Session Laws of Montana of 1957, Relating to License Fees Required of Retail Dealers Using Measuring Devices for Gasoline, Diesel or Fuel Oil, and Tank Meters and Bulk Petroleum; and Vehicle Tanks Used for Distribution of Petroleum Products Without Meters; Providing for the Extension of the Act to Require a License Fee of Retail Dealers Using Liquified Petroleum Gas Meters on Vehicle Tanks; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 60-202, Revised Codes of Montana, 1947, as amended by section 3, chapter 131, session laws of Montana, 1955, and as amended by section 2, chapter 96, session laws of Montana, of 1957, be and the same is hereby amended as follows:

Retail dealer license fee.

"60-202. (3913.2) **License fees.** That each retail dealer shall pay a license fee of two dollars ($2.00) for each separate place of business which shall include one retail gasoline, diesel or fuel oil measuring device. Two dollars ($2.00) for each additional gasoline, diesel or fuel oil measuring device in excess of one used at such place of business.

Vehicle tank and bulk meters.

"For vehicle tank meters and bulk petroleum meters of two and one-half (2½) inch and under, six dollars ($6.00). All two and one-half (2½) inch and under meters for more than one fluid, ten dollars ($10.00). Bulk petroleum meters over two and one-half (2½) inch, ten dollars ($10.00). All meters over two and one-half (2½) inch for more than one fluid, fifteen dollars ($15.00).

Vehicle tanks without meters.

"All vehicle tanks used for distribution of petroleum products without meters up to and including two hun-

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dred (200) gallons, eight dollars ($8.00). All vehicle tanks without meters over two hundred (200) gallons and including three hundred (300) gallons, ten dollars ($10.00). All vehicle tanks without meters over three hundred (300) gallons and including five hundred (500) gallons, twelve dollars ($12.00). All vehicle tanks without meters over five hundred (500) gallons and including one thousand (1000) gallons, sixteen dollars ($16.00). All vehicle tanks without meters over one thousand (1000) gallons and including two thousand (2000) gallons, twenty dollars ($20.00). *All liquified petroleum gas meters, on vehicle tanks, ten dollars ($10.00).*

Gas meters.

Delivery unlawful unless tanks are calibrated.

"It is unlawful to make hose delivery from vehicle tanks unless the tanks have been calibrated by the division of weights and measures. Part of a compartment delivery can only be made by a certified meter or an approved can. Gauge stick measurement will not be permitted. All tank markers will require suitable provision for sealing in a definite position, approved by the division of weights and measures. The sealer of weights and measures shall by proper regulation, fix fees for retesting measuring devices and all tanks used for the distribution of petroleum products or any special service rendered.

Licenses annual.

"All licenses shall be annual and expire December thirty-first.

Penalty for late payment.

"All license fees, under this act, that are not paid before July first of each year, where measuring device is in use, there will be an added charge of fifty percent (50%) and if the fee is not paid the equipment will be sealed and removed, by the sealer of weights and measures or his deputies, from service until such fee has been paid. Anyone found using a device or removing the seal before all license fees have been paid shall, upon conviction, be deemed guilty of a misdemeanor and subject to a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00)."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

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CHAPTER 221

An Act to Confirm the Vesting of Title in the State of Montana of Farm Mortgage Lands Transferred by Chapter 250, Laws of 1953, and Validating Instruments Affecting the Disposition of Said Lands.

Be it enacted by the Legislative Assembly of the State of Montana:

Title to lands vested in state.

Section 1. The transfer of farm mortgage lands made by chapter 250, laws of 1953 shall be deemed to have vested title in said lands in the State of Montana in trust for the state public school permanent fund.

All contracts, certificates of purchase, deeds and conveyances executed by the State of Montana in the administration of said lands since the effective date of chapter 250, laws of 1953, shall be deemed sufficient in law to dispose of the right, title and interest therein described by the State of Montana.

Approved March 7, 1961.

CHAPTER 222

An Act to Provide for the Seeding of Perennial Grass Covers on Newly Disturbed Right-of-Way Areas, Including State and Federal Highways, County Roadways, Irrigation Ditches, Drain Ditches, Borrow Pits, Slopes, Road Shoulders or Other Types of Construction; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Duty of commission to provide sod cover on highways.

Section 1. Whenever a highway, state or federal, is constructed in any part of Montana, it shall be the duty of the state highway commission to see that borrow pits, slopes and road shoulders be seeded to an adaptable perennial grass or combination of perennial grasses and/or legumes wherever it seems suitable for establishment of perennial grass covers, using seed meeting certified standards. Time and method of seeding, fertilizing practices and grass species shall be recommended and specified jointly by the Montana extension service, soil conservation service, and experiment station. Every effort will be made to establish a sod cover on the newly cut-over areas.

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Duty of county to provide sod cover on right-or-way areas.

Section 2. Whenever the natural sod cover is disturbed on right-of-way areas for construction of county roadways, irrigation ditches, drain ditches or other types of construction on such right-of-way, it shall be the duty of the county commissioners to see that such disturbed areas are seeded to an adaptable perennial grass or combination of perennial grasses and/or legumes whenever they believe it is practical to do so, using seed meeting certified standards. Time and method of seeding, fertilizing practices and grass species shall be recommended and specified by the Montana extension service. Every effort will be made to establish a sod cover on the newly cut-over area.

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1961.

CHAPTER 223

An Act Relating to School District or County High School Funds Realized From Bond Sales for Purposes of Construction; Requiring the Officer in Charge of Such Funds to Invest Idle Funds, When Requested by the School District or County High School Governing Body, in Short-term Obligations of the United States of America, and to Credit Interest Earned to Such School District or County High School, Notwithstanding Other Provisions; Amending Sections 16-2050 and 75-3922, Revised Codes of Montana, 1947; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-2050, Revised Codes of Montana, 1947, is amended to read as follows:

Investment of county moneys in county warrants.

"16-2050. (4639.1) **Investment of county moneys in county warrants** *and investment of school district or county high school moneys. (1) Except as provided in subsection (2) of this section,* whenever the county has under its control any moneys, for which there is no immediate demand, in any special fund subject to deposit which in the judgment of the board of county commissioners it

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would be advantageous to invest in county warrants, the county commissioners are authorized in their discretion to direct the county treasurer to purchase county warrants of the same county, thereafter issued against funds in which there is not sufficient money to pay such county warrants at the time of issuance, and in case of such purchase the county commissioners shall designate the fund or funds, to be so invested, and shall fix the amount thereof, and shall also designate the county warrant or warrants which are to be purchased by such funds. The county clerk and recorder shall thereupon cause to be attached to or stamped, written or printed upon the warrants so ordered to be purchased a notice to the effect that the county will exercise its preference right to purchase such warrant. The county treasurer shall thereafter when such such county warrant is presented to him, purchase the same out of the proper fund as designated by the board of county commissioners, and the warrant so purchased shall be registered as other county warrants, and bear interest as provided by law. When the designated amounts have been invested the county treasurer shall notify the county clerk and recorder. Public funds realized from the sale of bonds by a county for the purpose of constructing public buildings, or for other construction, may be invested in United States certificates of indebtedness, United States treasury notes or United States treasury bonds having a maturity date of one (1) year or less when emergency conditions, beyond the control of the county commissioners, exist which preclude the construction of the projects for which the bonds were issued at the time such investments are made.

Investment of school moneys in federal obligations.

"(2) *Whenever the county has under its control any moneys realized from the sale of bonds by a school district or county high school for the purpose of construction, for which there is no immediate demand, which in the judgment of the governing body of the school district or county high school it would be advantageous to invest in short-term obligations of the United States of America, such governing body may in its discretion direct the county treasurer to make such investments. Interest earned from such investments shall be credited to the said school district or county high school building fund, notwithstanding the provisions of subsection (6) of section 16-2618, Revised Codes of Montana, 1947.*"

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Amending clause.

Section 2. Section 75-3922, Revised Codes of Montana, 1947, is amended to read as follows:

Payment for school bonds.

"75-3922. (1224.22) **Payment for bonds** *and investment of bond moneys.* In case the state board of land commissioners is the purchaser of the bonds, the county treasurer shall forward the registered bonds to the secretary of the board who shall cause the same to be delivered to the state treasurer and to be paid in the manner provided by law. In case the bonds are purchased by other investors the county treasurer shall deliver the bonds to them upon receiving full payment therefor. All moneys arising from the sale of such bonds shall be paid to the county treasurer and by him credited to the school district issuing the same, and shall be immediately available for the purpose for which the bonds were issued and no other purpose, *except that moneys realized from the sale of bonds by a school district for the purpose of construction, for which there is no immediate demand may be invested in short-term obligations of the United States of America, when requested by the governing body of the school district; interest earned from such investments shall be credited to the said school district, notwithstanding the provisions of subsection (6) of section 16-2618, Revised Codes of Montana, 1947.*"

Investment of bond moneys.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1961.

CHAPTER 224

An Act to Amend Sections 3-201, 3-227 and 3-228, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 145, Session Laws of Montana, 1959, Relating to Grain Standards, Storage and Inspection and Regulation of Grain Warehousemen, to Provide That Trucks and Tractor-Trailer Units Shall be Included in the Definition of 'Grain Dealer;' and to Increase the Minimum Fine for Falsifying or Failing to Make Reports or Resisting Inspection From Fifty Dollars ($50.00) to Three Hundred Dollars ($300.00); and to Increase the Minimum Fine for Failing to Obtain a Li-

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cense or Continuing to Operate Without a License From Twenty-five Dollars ($25.00) to Three Hundred Dollars ($300.00), and to Increase the Maximum Fine for the Same Violation From One Hundred Dollars ($100.00) to Five Hundred Dollars ($500.00); and Providing a Saving Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 3-201 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"Grain" includes flax.

"Public warehouse."

"Public warehouseman."

"Grain dealer."

"Track buyer."

"Agent," "broker," "commission man."

"Section 3-201. (3574) **Definitions.** Whenever the word 'grain' is mentioned in this act, it shall be construed to include flax. The term 'public warehouse' includes any elevator, mill, warehouse, or structure in which grain is received from the public for storage, milling, shipment or handling. The term 'public warehouseman' shall be held to mean and include every person, association, firm and corporation owning, controlling, or operating any public warehouse in which grain is stored or handled in such a manner that the grain of various owners is mixed together, and the identity of the different lots or parcels is not preserved. The term 'grain dealer' shall be held to mean and include every person, firm, association and corporation owning, controlling, or operating a *truck, tractor-trailer unit, or* warehouse, other than a public warehouse, and engaged in the business of buying grain for shipment or milling. The term 'track buyer' shall mean and include every person, firm, association, and corporation who engages in the business of buying grain for shipment or milling, and who does not own, control, or operate a warehouse or public warehouse. The terms 'agent,' 'broker,' and 'commission man' shall mean and include every person, association, firm and corporation who engages in the business of negotiating sales or contracts for grain or of making sales or purchases for a commission."

Amending clause.

Section 2. That section 3-227 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Annual report required—warehouseman, track buyer, grain dealer.

"Section 3-227. (3589) **Annual report of warehouseman,** *track buyer and grain dealer* — **Special reports — penalty for failure to report.** On June 30th of each year

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every warehouseman, *track buyer and grain dealer* shall make report, under oath to the commissioner of agriculture, on blanks or forms prepared by him, showing the total weight of each kind of grain received and shipped from *or by* such *warehouseman, track buyer and licensed grain dealer* under the laws of Montana, and also the amount of outstanding storage receipts on said date, and a statement of the amount of grain on hand to cover the same. The commissioner of agriculture may also require special reports from such warehouseman, *grain dealer or track buyer* at such times as the commissioner may deem expedient. The commissioner may cause *the business of every warehouseman, track buyer and grain dealer* and the mode of conducting the same to be inspected by his authorized agent, whenever deemed proper, and the books, accounts, records, papers and proceedings of every such warehouseman, *track buyer and grain dealer* shall at all times during business hours be subject to such inspection. Any person, firm, or corporation, who shall knowingly falsify any of its reports to the department of agriculture, or who shall refuse or fail to make such reports when requested to do so by the commissioner of agriculture or his agents, or who shall refuse or resist inspection as provided in this section, shall be guilty of a misdemeanor and be punished by a fine of not less than *three hundred dollars ($300.00),* nor more than five hundred dollars ($500.00).''

Commissioner may require special reports.

Inspection authorized.

Penalties.

Amending clause.

Section 3. That section 3-228 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 145, session laws of Montana, 1959, be, and the same is hereby amended to read as follows:

Bond required.

''Section 3-228. (3589) **Bond — License and fees of warehouseman, track buyer,** *grain dealer* **and others — Penalty for operating without a license.** Each person, firm, corporation or association or persons operating any public warehouse or warehouses subject to the provisions of this act, and every track buyer, *grain dealer,* broker, or commission man, or person or association of persons, merchandising in grain shall, on or before the first day of July each year, give a bond with good and sufficient sureties to be approved by the commissioner of agriculture to the State of Montana, in such sum as the commissioner may require, conditioned upon the faithful per-

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formance of the acts and duties enjoined upon them by section 3-229, Revised Codes of Montana, 1947. *Provided, however, that where a truck, tractor-trailer owner or operator purchasing grain in Montana for the first time for cash or by certified check, the bond provided for in this act shall not be required.*

License fee.

"Every person or persons, firm, co-partnership, corporation, or association of persons, operating any public warehouse or warehouses, and every track buyer, *grain dealer,* broker, commission man, person or association of persons merchandising grain in the State of Montana, shall, on or before the first day of July of each year, pay to the state treasurer of Montana a license fee in the sum of fifteen dollars ($15.00) for each and every warehouse, elevator, *truck, tractor-trailer unit,* or other place, owned, conducted, or operated by such person or persons, firm, co-partnership, corporation or association of persons, where *or in which* grain is received, stored and *or* shipped, and upon the payment of such fee of fifteen dollars ($15.00) for each and every warehouse, elevator, *truck, tractor-trailer unit,* or other place, where *or in which* grain is merchandised within the State of Montana, the commissioner of agriculture shall issue to such person or persons, firm, co-partnership, corporation or association of persons, a license to engage in grain merchandising at the place *or with the licensed units* designated within the State of Montana, for a period of one *(1)* year *save only that a public warehouseman shall be permitted to deliver grain previously stored with him, and save further that a producer may be permitted to deliver his own grain. And save further that a producer may buy and haul grain for his own use and that of his neighbors in his community, and save further that the operator of a feed lot in the State of Montana may buy and haul grain for use on his own lot.* Any person, firm, association or corporation who shall engage in or carry on any business or occupation for which a license is required by this act without first having procured a license therefor, or who shall continue to engage in or carry on any such business or occupation after such license has been revoked, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than *three hundred dollars ($300.00)* nor more than *five hundred dollars ($500.00),* and each and

Penalty.

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every day that such business or occupation is so carried on or engaged in shall be a separate offense.

Insurance required.

"In addition to the bond and license fee, a public warehouseman shall carry adequate insurance approved by the commissioner of agriculture to protect the holders of warehouse receipts from loss. A public warehouseman license shall not be issued or may be revoked for failure to comply with this insurance requirement."

Severability clause.

Section 4. If any section, sub-section, sentence, clause or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Approved March 10, 1961.

CHAPTER 225

An Act to Amend Chapter 10, Section 71-1001 Through Section 71-1008, Title 71, of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 42, Laws of 1953, as Amended by Section 1, Chapter 252, Laws of 1955, as Amended by Section 1, Chapter 204, Laws of 1953, as Amended by Section 2, Chapter 252, Laws of 1955, as Amended by Section 1, Chapter 248, Laws of 1959, as Amended by Section 2, Chapter 204, Laws of 1953, and as Amended by Section 3, Chapter 252, Laws of 1955, Providing for the Transfer of the General Supervision and Total Administration of This Chapter From the State Department of Public Welfare to the Industrial Accident Board of the State of Montana; Amending Section 71-1001 of the Revised Codes of Montana, 1947, by Deleting References to the State Department of Public Welfare and Referring Instead to the Industrial Accident Board; Amending Section 71-1002 of the Revised Codes of Montana, 1947, by Deleting References to the County Departments of Public Welfare and the State Department of Public Welfare and Referring Instead to the Industrial Accident Board; Amending Section 71-1003 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 42, Laws of 1953, and as Amended by Section 1, Chapter 252, Laws of 1955, by Having the Amount of Payment Con-

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form to the Amount of Payment Established by the Legislative Assembly of 1959; Amending Section 71-1004 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 204, Laws of 1953, as Amended by Section 2, Chapter 252, Laws of 1955, and as Amended by Section 1, Chapter 248, Laws of 1959, by Deleting References to the County Departments of Public Welfare and the State Department of Public Welfare and Referring Instead to the Industrial Accident Board; Amending Section 71-1005 of the Revised Codes of Montana, 1947, by Deleting References to the County Departments of Public Welfare and to the State Department of Public Welfare, and Referring Instead to the Industrial Accident Board; Amending Section 71-1006 of the Revised Codes of Montana, 1947, by Deleting References to the County Departments of Public Welfare and to the State Department of Public Welfare, and Referring Instead to the Industrial Accident Board; Amending Section 71-1007 of the Revised Codes of Montana, 1947, by Deleting References to the County Departments of Public Welfare and the State Department of Public Welfare and Referring Instead to the Industrial Accident Board; Amending Section 71-1008 of the Revised Codes of Montana, 1947, as Amended by Section 2, Chapter 204 of the Laws of 1953, and as Amended by Section 3, Chapter 252 of the Laws of 1955, by Deleting References to the State Department of Public Welfare and Referring Instead to the Industrial Accident Board, and by Having the Amount of Payment Conform With the Amount Established by the 1959 Legislative Assembly; Providing for a New Section 71-1009, Requiring the Transfer of the Records and Payrolls From the State Department of Public Welfare to the Industrial Accident Board and Safeguarding Continued Payments to Present Recipients of Silicosis Benefit Payments; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 71-1001 of the Revised Codes of the State of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"71-1001. **Definitions.** (a) 'Payments' means money payments to persons having silicosis as herein defined. "Payments."

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"Silicosis."

"(b) 'Silicosis' means a fibrotic condition of the lungs due to the inhalation of silica dust which results in total disability to do manual labor.

"Examining board."

"(c) 'Examining board' *shall mean well qualified physician or physicians, as designated by the industrial accident board.*"

Amending clause.

Section 2. That section 71-1002 of the Revised Codes of the State of Montana, 1947, be, and the same is hereby amended to read as follows:

Industrial accident board shall supervise.

"71-1002. **Administration.** (a) *The industrial accident board of the State of Montana* is hereby authorized and charged with the general supervision of this chapter under the powers, duties and functions as prescribed *herein as amended.*

Transfer from department of public welfare.

"*All powers, duties and functions previously vested in the state department of public welfare in relation to this chapter are hereby transferred to the industrial accident board of the State of Montana.*

"(b) *Any powers, duties or functions previously vested in the county departments of public welfare in relation to this chapter are hereby transferred to the industrial accident board of the State of Montana.*

Board shall regulate.

"(c) The *industrial accident board of the State of Montana* shall formulate a plan and promulgate regulations for the operation of this chapter.

Duties of board.

"(f) The *industrial accident board* shall cooperate with the federal government in all matters of immediate concern pertaining to silicosis.

"(g) The *industrial accident board* shall publish an annual report and interim reports as may be necessary or required or asked for by the governor.

"(i) The *industrial accident board* shall designate the procedure to be followed in securing a competent medical examination for the purposes of determining silicosis in each individual applicant.

"(j) The *industrial accident board* shall designate suitable physicians *or physician, well qualified* to examine applicants for aid under this chapter.

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"(k) The *industrial accident board* shall pay the actual transportation expenses of any applicant from the place of his residence in the state to the place of examination and return, *from fund appropriated to the board for that purpose.*

"(l) The *industrial accident board* shall develop and cooperate with other agencies in developing measures for the prevention of silicosis."

Amending clause.

Section 3. That section 71-1003 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 42, laws of 1953, and as amended by section 1, chapter 252, laws of 1955, be and the same is hereby amended to read as follows:

"71-1003. **Eligibility requirements for aid to persons having silicosis, as herein defined.** Payments shall be made under this act to any person who:

Eligibility requirements for payments.

"(a) Has silicosis, as defined in section 71-1001 of the Revised Codes of Montana of 1947, which results in his total disability so as to prevent him from engaging in a gainful occupation. The term 'gainful occupation' as used herein shall not be construed to mean occasional or intermittent light employment where the ability to do manual labor is not essential, but shall mean any person having an income from any other source exceeding one hundred fifty dollars ($150.00) per month.

Disability.

"Gainful occupation."

"(b) Has resided in and been an inhabitant of the State of Montana for ten (10) years, or more, immediately preceding the date of the application.

Residence.

"(c) Has silicosis and is entitled to payments under this act, but who is not at the time of receiving a payment an inmate of a penal institution, or is not a patient or inmate of any institution for the treatment of mental diseases, or is not a patient in a medical institution as a result of having been diagnosed as having a psychosis. If the person to whom payment has been ordered to be paid is an inmate of Montana state tuberculosis sanatorium, then and in that case the payment herein provided for shall be made to his wife and children, if any.

Not in institution.

"(d) Is not receiving, with respect to any month for which he would receive a payment under this act, compensation under the workmen's compensation act of the

Other compensation.

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State of Montana, *as provided by chapter 155, laws of 1959,* which will equal the sum of *seventy-five dollars ($75.00)* hereunder. If he is receiving payments under the workmen's compensation act, *as provided by chapter 155, laws of 1959,* which is less in the aggregate than *seventy-five dollars ($75.00),* then he is entitled to a payment under this act of the difference between the amount received under the workmen's compensation act, *as provided by chapter 155, laws of 1959,* and *seventy-five dollars ($75.00)* per month."

Amending clause.

Section 4. That section 71-1004 of the Revised Codes of the State of Montana, 1947, as amended by section 1, chapter 204, laws of 1953, as amended by section 2, chapter 252, laws of 1955, and as amended by section 1, chapter 248, laws of 1959, be, and the same is hereby amended to read as follows:

Amounts of payments to silicotic.

"71-1004. **Amounts of payments.** Subject to the provisions of this act and the deductions herein provided, any person who has silicosis, as defined in this part, and who has, subject to the regulations and standards of the *industrial accident board;* been determined by the *industrial accident board* to be entitled to a payment under this part for silicosis, shall be granted a payment by the said *industrial accident board* of seventy-five dollars ($75.00) per month subject to such appropriations as may from time to time be made. The legislature shall authorize such additional appropriations as may be necessary to make the increased monthly payments provided herein."

Amending clause.

Section 5. That section 71-1005 of the Revised Codes of the State of Montana, 1947, be, and the same is hereby amended to read as follows:

Application for payment.

"71-1005. **Application for payment.** Application for payment under this chapter shall be made by the person seeking such payment to the *industrial accident board.* The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the *industrial accident board.* The application form may be filled in and written by a person authorized by the *industrial accident board.* If the applicant is unable to sign his or her name on the application, a duly witnessed mark may be used."

Amending clause.

Section 6. That section 71-1006 of the Revised Codes

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of the State of Montana, 1947, be, and the same is hereby amended to read as follows:

Investigation of applications by board.

"71-1006. **Investigation of applications.** Whenever *the industrial accident board under this chapter* receives an application for a payment an investigation and record shall be promptly made of the validity of the claim. The object of such investigation shall be to ascertain whether or not the applicant is entitled to a payment under the provision of this chapter, and such other information as may be required by the rules of the *industrial accident board*. The investigation of such applicant shall be conducted by *representatives of the industrial accident board.* The physicians *or physician* designated by the *industrial accident board* as herein provided shall constitute an examining board for such clinical, pathological, x-ray and Roentgen examinations as in the opinion of the examining board may be necessary to determine whether or not the applicant has silicosis, as herein defined. A certified report of such examination from the examining board of physicians *or physician* must be attached to the investigation report."

Physical examination.

Certified report.

Amending clause.

Section 7. That section 71-1007 of the Revised Codes of the State of Montana, 1947, be, and the same is hereby amended to read as follows:

Board shall make determination and notify applicant.

"71-1007. **Making payments.** Upon the completion of such investigation the *industrial accident board* shall determine whether or not the applicant is entitled to a payment under this chapter. The *board* shall then notify the applicant of its decision."

Amending clause.

Section 8. That section 71-1008 of the Revised Codes of the State of Montana, 1947, as amended by section 2, chapter 204 of the laws of 1953, and as amended by section 3, chapter 252 of the laws of 1955, be, and the same is hereby amended to read as follows:

Board shall administer federal grants.

"71-1008. **Conformity with acts of federal government.** If and when the government of the United States makes grants to states in aid of and allowing payments to persons having silicosis, as herein defined, the *industrial accident board* of the State of Montana is hereby authorized to administer in the State of Montana such grants in aid and payments in addition to grants made by this act. The total payments to any individual under this act shall not

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exceed *seventy-five dollars ($75.00)* per month exclusive of any grants made by congress."

Amending clause.

Section 9. That section 71-1009 be added to this chapter to read as follows:

Transfer of records.

"Section 71-1009. It shall be the duty of the state department of public welfare to turn over and deliver to the industrial accident board all records and payrolls now held by the state department of public welfare.

No person deprived by transfer.

"No person receiving benefits under this chapter shall be deprived of those benefits by reason of the transfer of the general supervision and total administration from the state department of public welfare to the industrial accident board of the State of Montana."

Repealing clause.

Section 10. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1961.

CHAPTER 226

An Act Authorizing and Empowering the State Board of Examiners of the State of Montana to Sell and Convey Certain Lands Situate in Powell County, Montana, Described as the 'Valiton Ranch,' Said 'Valiton Ranch' Being More Particularly Described in Instruments Recorded in Book 22, Deed Records of Powell County, Montana, at Pages 42, 44, and 168; to the Best Interests of the State of Montana; Providing for Appraisal of Said Land; Providing for Notice of Sale; Providing Costs of Sale and Expense Incidental Thereto to be Paid Out of the Proceeds of the Sale; and Providing the Net Proceeds of the Sale to go to the General Fund; Providing for An Effective Date and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Board of examiners authorized to sell Valiton ranch in Powell county.

Section 1. The state board of examiners of the State of Montana is hereby authorized and directed to sell *parts, parcel, or the whole thereof* to the highest qualified bidder at public auction and convey for cash certain real estate situate in Powell county, Montana, described as the

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'Valiton ranch,' said 'Valiton ranch' being more particularly described as containing 136.75 acres more or less, as set forth in that certain deed in which Frank Conley, Hilda Higgins Conley, and Thomas McTague and Emma McTague are grantors and the State of Montana grantee, which deed is dated June 14, 1921, and was filed for record April 11, 1923, and appears in book 22, deed records of Powell county, Montana, at page 42; 503.5 acres which is more particularly described in that deed in which Frank Conley and Hilda Higgins Conley are grantors and the State of Montana grantee, which deed is dated March 26, 1923, and filed for record April 11, 1923, and appears in book 22, deed records of Powell county, Montana, at page 44, and 18.81 acres which is more particularly described in that deed wherein Frank Conley and Hilda H. Conley are grantors and the State of Montana grantee which deed is dated August 27, 1923, and appears of record in book 22, deed records of Powell county, Montana, at page 168, less rights of way, *excluding therefrom a certain parcel of land containing 13½ acres more or less, described as follows: A tract in the east half of the southwest quarter of section 4, township 7 north, range 9 west, more particularly described as follows, to-wit: Beginning at a point from which the southeast corner of the southwest quarter of section 4, township 7 north, range 9 west, M.P.M. bears south 17° 16′ east 579.4 feet; thence north 5° 21′ west 667.5 feet; thence northwesterly along a curve to the left having a radius of 2825 feet, 638.0 feet; thence north 18° 12′ west 91.2 feet; thence southwesterly along a curve to the right, having a radius of 11,560 feet, 1802.8 feet; thence south 13° 48′ west 156.5 feet, thence south 89° 35′ east 602.2 feet; thence north 5° 21′ west 554.5 feet to the point of beginning, containing 13.5 acres more or less.*

Excluded parcel.

Section 2. Said board shall cause the above described land to be appraised by three duly licensed, qualified and acting real estate agents prior to making any sale and said lands shall not be sold for less than the appraised value.

Appraisal.

Section 3. Said sale shall be conducted at public auction held at the front door of Powell county courthouse, Deer Lodge, Montana, at the hour of 2:00 p.m. on June the 12th, 1961. Notice of said sale shall be given by publication in the Silver State Post, a weekly newspaper printed

Public auction.

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Notice of sale.

and published in Deer Lodge, Montana, once each week for four consecutive weeks preceding the date of sale. Such notice shall give the day, date, and time of the day of the sale, and shall contain a description of said property. Said board may reject any and all bids.

Proceeds—disposition.

Section 4. The expense of said sale shall be paid out of the proceeds and the net proceeds shall be deposited with the state treasurer and credited to the general fund.

Repealing clause.

Section 5. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1961.

CHAPTER 227

An Act to Provide That Unreasonable Delay in Making Payment of the Full Amount of an Order, Decision or Award of the Industrial Accident Board May Result in a Ten Percent (10%) Increase in Compensation Due an Injured Working Man; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

10% increase in weekly award for delay or refusal.

Section 1. When payment of compensation has been unreasonably delayed or refused, either prior or subsequent to the issuance of an award, the full amount of the order, decision or award may be increased by ten percent (10%) of the weekly award. The question of unreasonable delay or refusal shall be determined by the board and such a finding shall constitute good cause to rescind, alter or amend any order, decision or award previously made in said cause for the purpose of making the increase provided herein.

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1961.

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CHAPTER 228

An Act to Amend Section 75-1630, Revised Codes of Montana, 1947, Relating to Elementary School Attendance Outside the District of Residence; Providing for Authorization of Such Attendance; Providing for Determination of Residence; Providing for Payment of Tuition; Containing a Repealing Clause; and Fixing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1630, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Attendance at elementary school in district other than district of residence.

"75-1630. **Transfer of funds.** Children may attend public elementary schools in districts in the county outside of the district in which they reside, or in a district in an adjoining county, or in a district in a county in another state when the district in such other state adjoins the district in which they reside, or is situated in a county in such other state, which county adjoins the State of Montana, when written permission is secured from the board of trustees of the district in which they are to attend school and when written permission has been given by the county superintendent of schools of the county in which the children reside. Permission must be granted for such attendance in another district within or without the county of such children's residence when the following conditions exist:

Permission mandatory—when.

"1. When a child lives less than three (3) miles from a public elementary school in another district or county and three (3) or more miles from a public elementary school in the district or county of his own residence.

"2. When a child resides more than three (3) miles distance from a public elementary school within his own district or county and no transportation is furnished by the home district or county to such school.

"3. When regular bus transportation is furnished by a public elementary school in another district or county and his own district or county does not furnish transportation.

"Such distances mentioned above shall be measured from the point where the private family dwelling house

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is situated to the school house by the shortest traveled route.

"4. When a family has children who must attend high school outside of its own district or county and such family also has elementary school children who can more conveniently attend the elementary grades in the same district where the high school is located, provided such elementary children live more than three (3) miles from the home school or that a parent must move to town to provide high school education for his children.

"5. When the county superintendent of schools of the county where the child resides, for any other reason than stated above shall approve the attendance of any child in a public elementary school in another county. In approving such attendance in another district or county, the county superintendent shall take in consideration such items as distance to school, road conditions, trading center of parents, opportunity to live with relatives, dormitory facilities, living conditions, transportation and type of educational program.

Determination of residence.

"In the event that the residence, for determining tuition obligations, of such child is in dispute, then the rules for determining residence as outlined in section 83-303, Revised Coles of Montana, 1947, shall be used by the county superintendent of the county of the child's residence, or in case the dispute is between districts of two counties by the county superintendents of such counties, to finally determine the residence of such child.

Transfer of funds for tuition.

"When approval of attendance in another district within or without the county has been granted, the district in which such child resides shall pay to the school district where such child attends, an amount based on the following tuition rates: in case of attendance at an elementary school with an average number belonging up to one hundred (100), the tuition to be paid shall be two hundred twenty-five dollars ($225.00); where the school attended has an average number belonging between one hundred one (101) and three hundred (300), the tuition shall be two hundred dollars ($200.00); and where the school attended has an average number belonging over three hundred (300), the tuition rate shall be one hundred seventy-five dollars ($175.00) per pupil.

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Budget item.

"It is hereby made the duty of the board of school budget supervisors in approving the budgets, to include therein an item to care for the above tuition, if this has not already been done by the board of trustees in preparing the budget for the district.

Application.

"Applications for permission to attend a school outside the district or county shall be made to the county superintendent before July 1, previous to the year of attendance, excepting in those cases where circumstances prevent such application. These applications are to be approved or disapproved, except as otherwise provided by law, by the county superintendent, and by the trustees of the district the pupil wishes to attend.

Annual transmittal of attendance reports.

"At the close of the school term of the year in which such pupil attends this school outside the district, the clerk of such district shall transmit to the county superintendent the names of pupils from other districts attending his school, together with the number of days attended. This information in turn shall be transmitted by the county superintendent to the districts affected and such district shall reimburse the school attended for all pupils of its district; provided such pupil has attended at least forty (40) days. This amount of reimbursement shall be made an item of the budget for the coming year and reimbursement shall be made to the district of attendance out of the first funds available to the budget; provided, however, that the trustees of the district receiving pupils from another district may waive any or all tuition; provided, further, that the amount of this tuition shall not reduce the foundation program of the school paying it, but shall be an additional item added to it to be raised without a vote of the people; and provided further, that the district receiving the tuition may apply it against the needs of the budget after the regular district, county and state aid have been received.

Reimbursement.

Tuition where no school in district.

"In the case of a district which does not operate a school, the amount of this tuition can be raised without a vote of the people if the five (5) mill district levy and other local revenue is insufficient to raise the amount needed.

Determination.

"It shall be the responsibility of the superintendent of schools and the board of trustees of the public elementary school receiving the pupils and county superintendent of schools of the county of the pupils' residence to determine

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and agree upon eligibility of pupils transferring under the provisions of this act; provided, that an appeal may be taken to the state superintendent of public instruction.

Attendance of resident elementary school pupils outside state.

"Whenever elementary pupils residing in Montana are approved for attendance in an elementary school in an adjoining state; and whenever elementary pupils in an adjoining state are approved for attendance in an elementary school in Montana, the above schedule of tuition payments may be waived and payments arrived at on a reciprocal basis with the state involved. The state superintendent of public instruction is hereby authorized to negotiate with the state superintendent of public instruction of each state involved in arriving at tuition payments, which may either be on a per pupil basis of a flat amount or on an actual cost basis."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 10, 1961.

CHAPTER 229

An Act to Amend Section 93-321, Revised Codes of Montana, 1947, Relating to Departments of District Courts in Districts Having More Than One (1) Judge, by Requiring That Each Judge Shall be Assigned to a Numbered Department; to Amend Section 23-2001 of the Revised Codes of Montana, 1947, Relating to Nomination and Election of District Court and Supreme Court Judges; Providing That Each Office for Associate Justice of the Supreme Court is a Separate and Independent Office for Election Purposes; Providing That Each Department of the District Court in Districts Which Have More Than One (1) Judge is a Separate and Independent Office for Election Purposes; to Amend Section 23-2003, Revised Codes of Montana, 1947, Relating to Nomination and Election of Associate Justices of the Supreme Court and Judges, by Requiring Candidates for Nomination to the Office of Associate Justice of the Supreme Court to Designate in

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Their Petition for Nomination the Number of the Associate Justice Whose Office They Are Seeking; and Requiring Candidates for Judge in Districts Having More Than One (1) Judge to Specify the Numbered Department to Which They Seek Nomination and Election and Limiting Their Candidacy to the Numbered Department So Specified; to Amend Section 23-2005, Revised Codes of Montana, 1947, Relating to Arrangement and Certification of Names of Judicial Candidates; and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-321, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Terms and departments of court in districts having more than one judge.

"93-321. **Terms and departments of court in districts having more than one judge.** In each judicial district which has now or may hereafter have more than one judge, as many terms or sessions of court may be held at the same time as there are judges in the district, either elected or appointed to, called into, or assigned to the performance of the duties of holding court therein. The judges elected or appointed to hold office in each judicial district, having more than one judge, *must* divide the court into departments, prescribe the order of business, and make rules for the government of such court. *Each department shall be numbered and each judge shall be assigned to one (1) of such numbered departments. The judges* must apportion the business of the court among themselves as equally as may be, but in case of their failure to make such apportionment for any cause, *or in case of their failure for any cause to assign each judge to a numbered department,* the supreme court, upon application of any interested person, shall make an order apportioning such business *and assigning each judge to a numbered department,* and cause the same to be entered upon the minute book of the district court in each county in such district, and such order shall remain in full force and effect until modified or repealed by the authority making it. The failure or refusal of any district judge to carry out the terms of such order shall constitute a contempt of the supreme court."

Numbered departments—apportionment of business.

Amending clause.

Section 2. That section 23-2001, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

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Nomination and election of judges.

"23-2001. (812.1) **Nomination and election of district court and supreme court judges.** That hereafter all candidates for the office of justice of the supreme court of the State of Montana or judge of the district court in any judicial district of the State of Montana, shall be nominated and elected in accordance with the provisions of this act and in no other manner.

Separate office for election.

"Each vacancy for associate justice of the supreme court is to be considered as a separate and independent office for election purposes, and to facilitate the nomination and election of candidates thereto, the chief justice of the supreme court shall assign an individual number to the four (4) associate justices and certify these numbers to the office of the secretary of state not less than one hundred eighty (180) days before the date of the primary nominating election.

"Each department in a judicial district which has more than one (1) judge of the district court is to be considered as a separate and independent office for election purposes."

Amending clause.

Section 3. That section 23-2003, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Petition for nomination.

"23-2003. (812.3) **Petition for nomination — Contents — Form — Filing — Fees.** All persons who shall desire to become candidates for nomination to any office within the provisions of this act shall prepare, sign and file petitions for nomination in compliance with the requirements of the primary election laws, which petition for nomination shall be substantially in the following form: To ..... (name and title of officer with whom the petition is to be filed), and to the electors of the..... (state or counties of..... comprising the district or county as the case may be) in the State of Montana:

Form.

"I, ..., reside at....., and my postoffice address is..... I am a candidate on the nonpartisan judicial ticket for the nomination for the office of..... at the primary nominating election to be held in the..... (State of Montana or district or county), on the..... day of ....., 19....., and if I am nominated as a

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candidate for such office I will accept the nomination and will not withdraw, and if I am elected, I will qualify as such officer.

Designation of office.

"Each person filing a petition for nomination to the office of associate justice of the supreme court shall, in the blank wherein he indicates the office for which the petition for nomination is being filed, designate the number of the associate justice whose office he is seeking. Each person filing a petition can make only one (1) such designation.

"All persons who shall desire to become candidates for nomination as judge of the district court in any district having more than one (1) judge shall specify in said petition for nomination the number of the department to which they seek nomination and election, and their candidacy shall be limited solely to the numbered department so specified, it being intended hereby that the office of judge of each respective numbered department shall be filled in all respects as though each of said numbered departments were an entirely separate and independent elective office.

Nonpartisan.

"Provided, however, that no such petition for judicial office shall indicate the political party or political affiliations of the candidate, and provided further that no candidate for judicial office may in his petition for nomination state any measures or principles he advocates, or have any statement of measure or principles which he advocates, or any slogans, after his name on the nominating ballot as permitted by section 23-911.

Fee for filing.

"Each person so filing a petition for nomination shall pay or remit therewith the fee prescribed by law for the filing of such a petition for the particular judicial position for which he aspires for nomination. All such petitions for justices of the supreme court and judges of the several district courts of the state shall be filed with the secretary of state."

Amending clause.

Section 4. That section 23-2005, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Secretary of state shall certify candidates for judicial office.

"23-2005. (812.5) **Arrangement and certification of judicial candidates — Separate from party designation.**

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At the same time and in the same manner as by law he is required to arrange and certify the names of candidates for other state offices the secretary of state shall separately arrange and certify and file as required by law, the names of all candidates for judicial office, certifying to each county clerk of the state the names of all candidates for judicial office entitled to appear on the primary ballot in his county, with all other information required by law to appear upon the ballot, *which certificate shall separately state the names of candidates for each respective numbered associate justice and department in districts having more than one (1) judge, and* which lists of judicial candidates shall be made upon separate sheets of paper from the lists of candidates to appear under party or political headings."

Repealing and saving clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed, and all laws of the State of Montana pertaining to elections, both primary and general, not in conflict herewith are hereby declared applicable to the nomination and election of the judicial officers herein referred to.

Approved March 10, 1961.

CHAPTER 230

An Act to Amend Section 75-3612 of the Revised Codes of Montana of 1947, as Amended by Chapter 241, Laws of 1955, Chapter 251, Laws of 1957, and Chapter 267, Laws of 1959, Providing That if a High School Having an ANB of Twenty-four (24) or Less for Three (3) Consecutive Years is Not Approved as an Isolated High School, Then It Shall Receive No State Equalization Aid, and Amending Section 75-3617 of the Revised Codes of Montana of 1947, and Providing That Approval of Isolated Elementary Schools and High Schools Shall be Determined Subject to Approval by the State Superintendent of Public Instruction, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3612 of the Revised Codes of Montana of 1947, as amended by chapter 241, laws of

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1955, chapter 251, laws of 1957, and chapter 267, laws of 1959, be, and the same is hereby amended to read as follows:

Distribution—public school equalization fund.

"75-3612. **Foundation program.** The moneys coming into said state public school equalization fund shall be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt retirement, and for the payment of any and all costs and expense incurred in connection with any adult education program, kindergarten, recreation program, school lunch and cafeteria program, new buildings, new grounds, and transportation, in accordance with the following schedules:

Elementary schools.

"ELEMENTARY SCHOOLS

"(1) For each elementary school having eight (8) or fewer pupils and which, upon the request of the board of trustees of the district, is approved as an isolated school, the district shall receive three thousand three hundred dollars ($3,300.00), and if said school is not approved as an isolated school, then it shall receive seventeen hundred dollars ($1,700.00).

"(2) Schools with an ANB in excess of eight (8) but less than eighteen (18) pupils, shall receive three thousand three hundred dollars ($3,300.00) plus one hundred twenty-five dollars ($125.00) per pupil on the basis of average number belonging over eight (8).

"(3) Schools having an ANB of eighteen (18), but less than forty-one (41), shall receive a maximum of forty-five hundred fifty dollars ($4,550.00), plus forty-one hundred dollars ($4,100.00) provided two (2) teachers are regularly employed as full time teachers in such school, plus fifty dollars ($50.00) for each ANB over eighteen (18); forty-five hundred fifty dollars ($4,550) shall be the maximum for any one-teacher school, plus fifty dollars ($50.00) for an ANB over eighteen (18), not to exceed an ANB over twenty-five (25).

"(4) Schools having an ANB in excess of forty (40) will be guaranteed funds only on the basis of the total pupils (ANB) in the district for elementary pupils as follows:

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"For a school having an ANB of more than forty (40), and employing a minimum of three (3) teachers, the maximum of three hundred twenty dollars ($320.00) shall be decreased at the rate of sixty-five cents ($0.65) for each additional pupil until the total number (ANB) shall have reached a total of one hundred (100) pupils. Provided, however, that if only two (2) teachers are employed in a school with an ANB over forty (40) the maximum schedule shall be nine thousand seven hundred fifty dollars ($9,750.00), plus fifty dollars ($50.00) for each ANB over forty (40), not to exceed an ANB over fifty (50). For a school having an ANB of more than one hundred (100) pupils, the maximum of two hundred eighty-one dollars ($281.00) shall be decreased at the rate of twenty-nine cents ($0.29) for each additional pupil until the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed two hundred twenty-three dollars ($223.00) for each pupil; provided that the maximum per pupil, for all pupils ANB, shall figure on the basis of the amount allowed herein on account of the last eligible pupil, ANB, and provided further that all the schools operated within the incorporated limits of a city or town shall be treated as a school unit for the purpose of this schedule.

High schools.

"HIGH SCHOOLS

"For a school having an average number belonging (ANB) of forty (40) or fewer pupils in a school, the guaranteed budget shall not exceed five hundred thirty dollars ($530.00) for each pupil. High schools shall not receive state equalization aid unless they have been accredited by the state board of education, *and if a high school having an ANB of twenty-four (24) or less for three (3) consecutive years is not approved as an isolated high school, then it shall not receive state equalization aid.*

"For a secondary school having an ANB of more than forty (40) pupils, the maximum five hundred thirty dollars ($530.00) shall be decreased at the rate of two dollars and sixty cents ($2.60) for each additional pupil until the ANB shall have reached a total of one hundred (100) such pupils. For a school having an ANB of more than one hundred (100) pupils, the maximum of three hundred seventy-four dollars ($374.00) shall be decreased at the

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rate of sixty-five cents ($0.65) for each additional pupil until the number ANB shall have reached two hundred (200) pupils. For a school having an ANB of more than two hundred (200) pupils, a maximum of three hundred nine dollars ($309.00) shall be decreased at the rate of ten cents ($0.10) for each additional pupil until the total number, ANB, shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum of two hundred ninety-nine dollars ($299.00) shall be decreased at the rate of five cents ($0.05) for each additional pupil until the total number, ANB, shall have reached nine hundred (900) pupils. Schools having an ANB in excess of nine hundred (900) pupils shall receive two hundred sixty-nine dollars ($269.00) per pupil, provided that the maximum per pupil for all pupils, ANB, shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB.

"In computing the amount guaranteed for the foundation program, only junior high schools which have been approved and accredited by the state board of education shall be considered a part of the secondary enrollment."

Section 2. That section 75-3617 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"75-3617. **Application for approval as isolated schools — Circumstances to be considered in acting upon application.** Before any elementary school having an ANB of eight (8) or less may be approved as an isolated school, and before any high school having an ANB of twenty-four (24) or less may be approved as an isolated high school, the board of trustees of the district wherein said school is located shall, on or before the *first day of May* in each year, make written application to the budget board for such approval. Such application shall be acted upon *on or before the fifteenth day of June,* and such application shall be granted if said budget board shall find and determine that transportation of the pupils of such school to another school is impractical by reason of the existence of obstacles to travel, such as mountains, rivers, poor roads, distance of the pupils' homes from county roads or highways, or the distance of such isolated school from the nearest open school having room and facilities for the pupils

Approval—isolated schools.

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of such isolated school; and an elementary school may also be approved as an isolated school upon a finding and determination by said budget board, approved by the county superintendent of schools *and by the state superintendent of public instruction* of the existence of conditions other than obstacles to travel which would result in unusual hardship to the pupils of such isolated school if they were transported to another school; and if none of the above mentioned circumstances exist, such application shall be denied."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1961.

CHAPTER 231

An Act to Amend Chapter 17, of the Session Laws of Montana, of 1959, Designated as Section 35-414 in the 1959 Cumulative Pocket Supplement of Replacement Volume 3, of the Revised Codes of Montana, of 1947, Relating to the Termination of Operation of Housing Facilities Acquired Pursuant to the Emergency War and Veterans Housing Facilities Act of the State of Montana; Extending the Date of Termination of Operation From May 1, 1961, to May 1, 1963; Providing for An Earlier Termination Date by a Local Agency If Desired; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That chapter 17, of the session laws of Montana, of 1959, designated as section 35-414 in the 1959 cumulative pocket supplement of replacement volume 3, of the Revised Codes of Montana, of 1947, be, and the same is hereby amended to read as follows:

Termination of operation—housing facility.

"35-414. **Termination of operation.** The operation and maintenance of any housing facility acquired pursuant to this act may be terminated at any time *by any local agency on or after June 1, 1962* if consistent with the terms of the federal act under which it was acquired, or if the legislature determines that the necessity therefor no longer exists, but in no event shall such housing facility be oper-

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ated and maintained by any local agency after the first day of May, *1963*.

Liquidation.

"When any housing facility is discontinued, in whole or in part, it shall be liquidated in such manner as will secure the greatest return to the local agency; provided, however, that any lands acquired under this act may be retained by the local agency. The term 'liquidated' as used in this section, in so far as the same pertains to any temporary housing facility dwelling structures, shall mean and include dismantling, and disposal thereof by the local agency for purposes other than a dwelling place for human beings."

"Liquidated" defined.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1961.

CHAPTER 232

An Act Authorizing the Regents of the University of Montana to Construct, Finance and Control Student Housing Facilities at Units of the University of Montana and Repealing Sections 75-201, 75-202, 75-203, 75-204, 75-205 and 75-206, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Authority given regents over student housing facilities.

Section 1. The regents of the university of Montana may:

(1) Acquire, erect, equip, enlarge and improve from time to time at any unit of the university of Montana residence halls, dormitories or other student housing facilities.

(2) Rent rooms or provide board, or both, in student housing facilities to students, officers, guests, and employees of the unit at rates that will insure a reasonable net income over operating expenses, debt service and necessary reserves.

(3) Use the net income for repairs, replacements, and maintenance of existing student housing facilities and the erection of additional student housing facilities.

(4) Exercise full control and management of the student housing facilities.

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Title in state.

Section 2. The title to all real estate and improvements acquired and erected under the provisions of this act shall be taken and held in the name of the State of Montana, except that title to fixtures and equipment purchased on a time or installment basis may remain in the vendor until the latter has been paid in full.

Finance powers.

Section 3. In carrying out the above powers, the regents may:

(1) Borrow money and issue bonds or other securities.

(2) For the repayment of money so borrowed, pledge the net income received from student housing facilities, income from grants of land and other income in the form of gifts, bequests, contributions and federal grants.

(3) Pay interest from the corpus during construction and one year thereafter.

(4) Sell bonds issued in the manner and for the price they determine, with the approval of the board of examiners.

(5) Refund bonds previously issued and pay any redemption premium thereon.

State not charged.

Section 4. No obligation created by this act shall ever become a charge against the State of Montana.

Separate obligations.

Section 5. In discharging obligations under the preceding sections, all of the student housing facilities at each unit of the university of Montana may be considered as one; but the rents and income available for student housing purposes at one unit shall not be used to discharge obligations created for student housing facilities at another unit. All such obligations, including principal and interest, shall be payable solely from the sources authorized in this act.

No other state moneys useable.

Section 6. No state moneys except the sources of income specified in subsection (2) of section 3 of this act shall be obligated or used for the purposes of this act, unless specifically directed by the legislative assembly.

Contracts unimpaired.

Section 7. This act shall not impair any contract, indenture or agreement executed under previous laws.

Prior contracts and bonds preserved.

Section 8. No provision of this act shall affect or impair:

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(1) any contract or undertaking, or the financing or agreement to finance any contract or undertaking entered into under the provisions of the laws repealed by section 9 of this act prior to the effective date of this act, or;

(2) the issuance of bonds to finance facilities authorized or commenced under the laws repealed by section 9 of this act prior to the effective date of this act.

Repealing clause.

Section 9. Sections 75-201, 75-202, 75-203, 75-204, 75-205, and 75-206, Revised Codes of Montana, 1947, are repealed.

Approved March 14, 1961.

CHAPTER 233

An Act to Amend Section 43-103, Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 191, Laws of Montana, 1951, and to Amend Section 43-104, Revised Codes of Montana, 1947, as Amended by Section 2 of Chapter 191, Laws of Montana, 1951, for the Purpose of Apportioning the Membership of the House of Representatives in the Legislative Assembly in Accordance with the Federal Census Enumeration of the Inhabitants of the Several Counties of Montana Taken in 1960.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 43-103, Revised Codes of Montana, 1947, as amended by section 1 of chapter 191, laws of Montana 1951, be, and the same is hereby, amended to read and provide as follows:

Apportionment of legislative assemblies based on census.

"43-103. (44) **Apportionment of legislative assemblies.** That after the expiration of the thirty-*seventh* legislative assembly of the State of Montana, the membership of the house of representatives of all legislative assemblies of Montana shall be apportioned amongst, and to the several counties of the state, upon and according to the official federal census enumeration of the inhabitants of the several counties of Montana, as taken by authority of law in the year of *1960,* and upon the ratio of one (1) representative, or member, therein from each

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county for each *eight thousand five hundred (8,500)* persons in such county, or fractional part thereof in excess of *four thousand two hundred fifty (4,250)* persons; provided that each county now created, shall be entitled to at least one (1) member."

Minimum of one member per county.

Amending clause.

Section 2. That section 43-104, Revised Codes of Montana, 1947, as amended by section 2 of chapter 191, laws of Montana 1951, be and the same is hereby, amended to read and provide as follows:

Number of representatives by counties.

"43-104. (45) **Number of representatives from each county.** In accordance therewith each county of the state shall be entitled to, and shall elect at each biennial general, state and county election, the number of members of the house of representatives in the legislative assembly of Montana herein below allotted and apportioned to it and set opposite its name as follows:

Beaverhead County	One member
Big Horn County	One member
Blaine County	One member
Broadwater County	One member
Carbon County	One member
Carter County	One member
Cascade County	*Nine* members
Chouteau County	One member
Custer County	Two members
Daniels County	One member
Dawson County	One member
Deer Lodge County	Two members
Fallon County	One member
Fergus County	Two members
Flathead County	Four members
Gallatin County	Three members
Garfield County	One member
Glacier County	One member
Golden Valley County	One Member
Granite County	One member
Hill County	Two members
Jefferson County	One member
Judith Basin County	One member
Lake County	Two members
Lewis and Clark County	Three members
Liberty County	One Member
Lincoln County	One member

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Number of representatives by counties—cont'd.

McCone County ..... One member
Madison County ..... One member
Meagher County ..... One member
Mineral County ..... One member
Missoula County ..... Five members
Musselshell County ..... One member
Park County ..... Two members
Petroleum County ..... One member
Phillips County ..... One member
Pondera County ..... One member
Powder River County ..... One member
Powell County ..... One member
Prairie County ..... One member
Ravalli County ..... *One member*
Richland County ..... One member
Roosevelt County ..... One member
Rosebud County ..... One member
Sanders County ..... One member
Sheridan County ..... One member
Silver Bow County ..... *Five* members
Stillwater County ..... One member
Sweet Grass County ..... One member
Teton County ..... One member
Toole County ..... One member
Treasure County ..... One member
Valley County ..... Two members
Wheatland County ..... One member
Wibaux County ..... One member
Yellowstone County .....*Nine* members''

Approved March 14, 1961.

CHAPTER 234

An Act to Amend Section 93-9909 of the Revised Coles of Montana, 1947, as Last Amended by Section 9, Chapter 259, Laws of 1955, Relating to Summons in Condemnation Proceedings by Providing That Such Summons Must be Served Upon Each Defendant at Least Twenty (20) Days Prior to Hearing on Order to Show Cause and Providing That a Copy of the Complaint Shall be Served on Each Defendant Named; to Amend Section 93-9910 of the Revised Codes of Montana, 1947,

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Relating to Defendants in Condemnation Proceedings by Providing That an Answer Shall be Served Upon the Plaintiff by Each Appearing Defendant and That Such Answer Shall Contain a Specific Allegation by Such Defendant as to the Amount Claimed by Such Defendant as Reasonable and Just Compensation for the Taking of His Lands; Amending Section 93-9911 of the Revised Codes of Montana, 1947, as Last Amended by Section 10, Chapter 259, Laws of 1955, Relating to the Powers of Courts and Judges in Condemnation Proceedings; Providing for a Preliminary Condemnation Order; and Eliminating Therefrom Reference to Appointment of Commissioners; Amending Section 93-9912 of the Revised Codes of Montana, 1947, Relating to Meeting of Commissioners by Providing for Qualifications, Appointment, and Proceedings Therefor, and by Amending Provisions Relating to Measurement of Award by Deleting References to Damages and Substituting Therefor the Term 'Depreciation'; and by Deleting Provisions Relating to Compensation for Removal of Personal Property; Amending Section 93-9913 of the Revised Codes of Montana, 1947, as Last Amended by Section 1, Chapter 133, Laws of 1957, by Deleting Reference to 'Damages', and Providing for Interest to be Paid if Plaintiff Let Into Possession of Property; Amending Section 93-9914 of the Revised Codes of Montana, 1947, Providing for Report of Condemnation Commissioners and Providing That Their Report Shall be Filed Within Ten (10) Days After Hearing and Providing That Two of Three Commissioners May Decide Award; Amending Section 93-9915 of the Revised Codes of Montana, 1947, by Deleting Therefrom Reference to Damages; Amending Section 93-9920 of the Revised Codes of Montana, 1947, by Providing That Plaintiff in Condemnation Proceedings Can be Let Into Possession of Property by Depositing Amount Claimed by Landowner, Providing for a Bond to be Posted for Return of Excess Moneys by Landowner Where Deposit Amounts Are Withdrawn Prior to Final Award; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-9909 of the Revised Codes of Montana, 1947, as last amended by section 9, chapter 259, laws of 1955, be amended to read as follows:

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Summons and notice.

"93-9909. **Summons, what to contain — How issued and served.** The clerk must issue a summons, which must contain the names of the parties, a description of the lands and other property proposed to be taken, a statement of the public use for which it is sought, and a notice to the defendants *to file and serve upon the plaintiff an answer within fifteen (15) days from date of service of summons and* to appear before the court or judge, at a time and place therein specified, and show cause why the property described should not be condemned as prayed for in the complaint. Such summons must, in other particulars, be in form of a summons in a civil action, and must be served in like manner upon each defendant named therein, at least *twenty (20) days* previous to the time designated in such notice for the hearing. *A copy of the complaint must be served, with the summons, upon each defendant named.* But the failure to make such service upon a defendant does not affect the right to proceed against any or all other of the defendants, upon whom service of summons had been made."

Service—summons and copy of complaint.

Amending clause.

Section 2. That section 93-9910 of the Revised Codes of Montana, 1947, be amended to read as follows:

Answer of appearing defendants to be served—allegation of amount claimed.

"93-9910. **Who may defend** — *Answer of defendant.* All persons named in the complaint, in occupation of, or claiming an interest in, any of the property described in the complaint, or in the *amount to be awarded* for the taking thereof, though not named, may appear. *The answer of each appearing defendant must be filed and served upon the plaintiff, or upon any attorney for plaintiff, within a period of fifteen (15) days after the service of summons and complaint. The answer of each appearing defendant must contain a specific allegation as to the total amount which such defendant claims is reasonable and just for the taking of such defendant's lands or other real property or interest therein."*

Amending clause.

Section 3. That section 93-9911 of the Revised Codes of Montana, 1947, as last amended by section 10, chapter 259, laws of 1955, be amended to read as follows:

Power of court—determination and preliminary condemnation order.

"93-9911. **Power of court;** *preliminary condemnation order.* The court or judge has power:

1. To regulate and determine the place and manner of making the connections and crossings, and enjoying the

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common uses mentioned in subdivision 5, section 93-9904, and of the occupying of canyons, passes, and defiles for railroad purposes, as permitted and regulated by the laws of this state or of the United States;

2. To determine whether or not the use for which the property is sought to be appropriated is a public use, within the meaning of the laws of this state;

3. To limit the amount of property sought to be appropriated, if in the opinion of the court or judge the quantity sought to be appropriated is not necessary;

4. If the court or judge is satisfied, *from the evidence presented at the hearing provided for in section 93-9909,* that the public interests require the taking of such lands, *and that the facts necessary to be found before condemnation appear,* it or he must *forthwith make and enter a preliminary condemnation order that the condemnation of the land or other real property may proceed in accordance with the provisions of this chapter.*

5. If the property sought to be appropriated is a sand, stratum or formation suitable for use as an underground natural gas storage reservoir and the existence and suitability of it for such use has been proved by plaintiff upon substantial evidence, the order of the court or judge shall direct the commissioners to ascertain and determine the amount to be paid by the plaintiff to each person for his interest in the property sought to be appropriated for use as such underground natural gas storage reservoir, and/or as the annual rental for the use of such underground gas storage reservoir and for the use of so much of the surface as is required in the operation of the said underground gas storage reservoir, and for the use in connection with the creation, operation and maintenance thereof, and for all the native gas contained in said reservoir as compensation and damages by reason of the appropriation of such property; provided, however, the amount to be paid for such native gas and all thereof shall be no less than the market value of such gas.

The court shall appoint three (3) persons, qualified as experts and recommended as such by the oil and gas conservation commission of the State of Montana, to assist and advise the commissioners in determining the compensation and damages to be paid by plaintiff to each per-

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son for his interest in the property sought to be appropriated and the fees and expenses of such persons shall be chargeable as costs of the proceedings to be paid by the plaintiff."

Section 4. That section 93-9912 of the Revised Codes of Montana, 1947, be amended to read as follows: Amending clause.

"93-9912. **Appointment and meeting of commissioners.** Appointment of condemnation commissioners. *Immediately upon making and entering the preliminary condemnation order the judge must meet with the respective parties, or their attorneys of record, for the purpose of appointing condemnation commissioners to ascertain and determine the amount to be paid by the plaintiff to each owner or other persons interested in such property by reason of the appropriation of such property. The court must thereupon appoint three (3) qualified, disinterested condemnation commissioners. One of such commissioners shall be nominated by the party or parties plaintiff; one of such commissioners shall be nominated by the party or parties defendant. The third commissioner shall be the chairman and shall be nominated by the two commissioners previously nominated, provided, however, that if said two commissioners fail to make such choice at the time of their appointment, then such nomination shall be made by the presiding judge. Each commissioner shall* Qualifications. *possess the following qualifications: a citizen of the United States and over twenty-one (21) years of age; that he is not more than seventy (70) years of age; that he is in possession of natural faculties, of ordinary intelligence and not decrepit; that he is possessed of sufficient knowledge of the English language; that he was assessed on the last assessment roll of a county within the judicial district in which the action is pending; that he has not been convicted of malfeasance in office, or any felony or other high crime; that he is not related within the sixth degree to any party; that he does not stand in the relation of guardian and ward, master and servant, debtor and creditor, or principal and agent, or partner or surety as to any party. At the time of such meeting and nominations there* Affidavit of nomination. *shall be filed with the court by each nominating party or judge an affidavit of the person so nominated stating substantially as follows: that he has formed no unqualified opinion or belief as to the compensation to be awarded in the proceeding or as to the fairness or unfairness of the*

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plaintiff's offer for the lands and improvements of the defendants; and that he has no enmity against or bias in favor of any party and has not discussed, communicated or overheard or read any discussion or communication from any party relating to values of the lands in question or the compensation offered, demanded or to be awarded; that if selected as a condemnation commissioner he is willing to serve and will well and truly try the issues of compensation and a true decision render according to the evidence and in compliance with the instructions of the court; that he will not discuss the case with anyone except the other commissioners until a decision has been filed with the court.

Examination of lands.

Immediately upon such nomination and appointment of commissioners the same shall proceed to meet at the time and place stated in the order appointing them, which time shall be not more than ten (10) days after the order of appointing, and proceed to examine the lands sought to be

Hearing.

appropriated. *At a time appointed by the judge and within said (10) day period they* shall hear the allegations and evidence of all persons interested in each of the several parcels of land. *Such hearing shall be attended by, and presided over by, the presiding judge who shall make all necessary rulings upon procedure and the admissibility*

Judge shall instruct commissioners.

of evidence. At the conclusion of the aforesaid hearing, the court or judge shall instruct the commissioners as to the law applicable to their deliberations and shall instruct them that their duty is to determine, solely upon the basis of said examination of lands, the evidence produced at the hearing or hearings and the instructions of the court, the following:

Value of property.

1. The value of the property sought to be appropriated and all improvements thereon pertaining to the realty, and of each and every separate estate and interest therein; if it consist of different parcels, the value of each parcel and each estate or interest therein must be separately assessed.

Depreciation in value.

2. If the property sought to be appropriated constitutes only a part of a larger parcel, *the depreciation in value* which will accrue to the portion not sought to be condemned, by reason of its severance from the portion sought to be condemned, and the construction of the improvements in the manner proposed by the plaintiff.

Benefit to property.

3. Separately, how much the portion not sought to be

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condemned, and each estate or interest therein, will be benefitted, if at all, by the construction of the improvements proposed by the plaintiff, and if the benefit shall be equal to the *amount* assessed under subdivision 2, the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefits shall be less than the *amount* assessed *under subdivision 2,* the former shall be deducted from the latter, and the remainder shall be the only *amount* allowed in addition to the value.

Costs.

4. If the property sought to be condemned be for a railroad, the cost of good and sufficient fences along the line of such railroad, and the cost of cattle-guards where fences may cross the line of such railroad.

Award apportionment—respective rights.

5. *Where there are two or more estates or divided interests in property sought to be condemned, the plaintiff is entitled to have the amount of the award, for said property first determined, as hereinbefore stated, as between plaintiff and all defendants claiming any interest therein; thereafter in the same proceeding the respective rights of each of such defendants in and to the award shall be determined by the commissioners, under supervision and instruction of the court, and the award apportioned accordingly.''*

Amending clause.

Section 5. That section 93-9913 of the Revised Codes of Montana, 1947, as last amended by section 1, chapter 133, laws of 1957, be amended to read as follows:

Right accrues as of date of service.

''93-9913. **The date with respect to which compensation shall be assessed.** For the purpose of assessing compensation the right thereto shall be deemed to have accrued at the date *of the service* of the summons, and its actual value *as of* that date shall be the measure of compensation *for* all property to be actually taken, and the basis of *depreciation in value* of property not actually taken, but injuriously affected. If an order be made letting the plaintiff into possession, as provided in section 93-9920, the *amount* awarded shall draw lawful interest from the date *on which the property owner surrenders possession of the property in accordance with the terms* of such order *to the date of receipt of the award or any portion thereof; provided, however, that interest shall not be allowed or paid on so much thereof as shall have been*

Interest after possession.

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paid to the landowner involved or withdrawn by such landowner from the court. No improvements put upon the property, subsequent to the date of the service of summons, shall be included in the assessment of compensation *or depreciation in value, nor shall the same be used as the basis of computing such compensation or depreciation.*"

Amending clause.

Section 6. That section 93-9914 of the Revised Codes of Montana, 1947, be amended to read as follows:

Commissioners shall file report.

"93-9914. **Report of commissioners.** *The report of commissioners shall be made on such forms as are provided for their use by authority of the court. Such report must be filed within ten (10) days after the completion of the hearing, or within such additional time as may be allowed by the judge, upon a clear showing of necessity therefor, and must be filed with the clerk of court* and the clerk must *forthwith* notify the parties interested that such report has been filed, with notice, *together with a true copy of said report,* must be served upon all the parties interested, in the same manner as a summons. *A concurrence of two (2) commissioners shall be necessary to the making of a final report or award as to any parcel of property, or interest therein. In the event that no two (2) of the said commissioners are able to agree as to the amount of any award they shall report such fact to the judge or court within the time hereinbefore specified and the court must forthwith impanel and appoint new commissioners as hereinbefore provided, which commissioners shall proceed as provided before herein to determine any award upon which the previous commissioners failed to agree.*

Concurrence of two commissioners required.

The report of said commissioners shall also state the number of days, or portions thereof, consumed by the commissioners in performance of their duties as prescribed herein."

Amending clause.

Section 7. That section 93-9915 of the Revised Codes of Montana, 1947, be amended to read as follows:

Appeal from assessment—time and procedure.

"93-9915. **Appeal from assessment of commissioners.** An appeal from any assessment made by the commissioners may be taken and prosecuted in the court where the report of said commissioners is filed by any party interested. Such appeal must be taken within the period of thirty (30) days after the service upon appellant of the

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notice of the filing of the award by the service of notice of such appeal upon the opposing party or his attorney in such proceedings *and the filing of the same in the district court wherein the action is pending,* and the same shall be brought on for trial upon the same notice and in the same manner as other civil actions, and unless a jury shall be waived by the consent of all parties to such appeal, the same shall be tried by jury, and the *amount* to which appellant may be entitled, by reason of the appropriation of his property, shall be re-assessed upon the same principle as hereinbefore prescribed for the assessment of such *amount* by commissioners; upon any verdict or assessment by commissioners becoming final, judgment shall be entered declaring that upon payment of such verdict or assessment, together with the interests and costs allowed by law, if any, the right to construct and maintain *the highway,* railroad, or other public work or improvement, and to take, use and appropriate the property described in such verdict or assessment, for the use and purposes for which said land has been condemned, shall, as against the parties interested in such verdict or assessment, be and remain in the plaintiff and his or its heirs, successors or assigns forever. In case the party appealing from the award of the commissioners in any proceeding, as aforesaid, shall not succeed in changing to his advantage the amount finally awarded in such proceeding, he shall not recover the costs of such appeal, but all the costs of the appellee upon such appeal shall be taxed against and recovered from the appellant; provided, that upon the trial of such appeal, the plaintiff may contest the right of any party or parties thereto to any of the property mentioned and set forth or involved in said appeal, which was located after the preliminary survey of any such highway or railroad, seeking to condemn its right of way under and pursuant to the provisions of this act; provided, such condemnation proceedings are begun within one year after such preliminary survey."

Trial.

Judgment.

Taxing of costs.

Section 8. That section 93-9920 of the Revised Codes of Montana, 1947, be amended to read as follows:

Amending clause.

"93-9920. **Putting plaintiff in possession.** At any time after *the filing of the preliminary condemnation order or after* the report and assessment of the commissioners *have* been made and filed in the court, and either

Order putting plaintiff in possession after payment.

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before or after appeal from such assessment, or from any other order or judgment in the proceedings, the court or any judge thereof at chambers, upon application of the plaintiff, shall have power to make an order that upon payment into court for the defendant entitled thereto of the amount of *compensation claimed by the defendant in his answer or the amount* assessed, either by the commissioners or by the jury, as the case may be, the plaintiff be authorized, if already in possession of the property of such defendant sought to be appropriated, to continue in such possession; or, if not in possession, that the plaintiff be authorized to take possession of such property and use and possess the same during the pendency and until the final conclusion of the proceedings and litigation, and that all actions and proceedings against the plaintiff on account thereof be stayed until such time; provided, however, that where an appeal is taken by such defendant, the court or judge may, in its or his discretion, require the plaintiff, before continuing or taking such possession, in addition to paying into court the amount assessed, to give bond or undertaking, with sufficient sureties, to be approved by the judge and to be in such sum as the court or judge may direct, conditioned to pay the defendant any additional damages and costs over and above the amount assessed, which it may finally be determined that defendant is entitled to for the appropriation of the property, and all damages which defendant may sustain if for any cause such property shall not be finally taken for public uses.

Court may require bond of plaintiff.

Just compensation.

The amount assessed by the commissioners, or by the jury on appeal, as the case may be, shall be taken and considered, for the purposes of this section, until reassessed or changed in the further proceedings, as just compensation for the property appropriated; but the plaintiff, by payment into court of the amount *claimed in the answer or the amount* assessed, or by giving security as above provided, shall not be thereby prevented or precluded from appealing from such assessment, but may appeal in the same manner and with the same effect as if no money had been deposited or security given; and in all cases where the plaintiff deposits the amount of the assessment and continues in possession, or takes possession of the property, as herein provided, the defendant entitled thereto, if there be no dispute as to the owner-

Deposit by plaintiff.

Defendant entitled to payment.

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ship of the property, may at any time demand and receive *upon order of* the court, *all or any part of* the money so deposited, and shall not by such demand or receipt be barred or precluded from his right of appeal from such assessment, but may, notwithstanding, take and prosecute his appeal from such assessment; provided, that if the amount of such assessment is finally reduced on appeal by either party, such defendant who has received *all or any part of* the amount deposited shall be liable to the plaintiff for any excess of the amount so received by him over the amount finally assessed, with legal interest on such excess from the time such defendant received the money deposited, and the same may be recovered by action; and, provided, further, that upon any appeal from assessment by the commissioners to a jury, the jury may find a less as well as an equal or greater amount than that assessed by the commissioners; *and provided, further, that the court shall not order the delivery to any defendant of more than seventy-five (75) per cent of the money deposited on his account except upon posting of bond by such defendant equal to the amount in excess of seventy-five (75) per cent, with sureties to be approved by the court; to repay to the plaintiff such amounts withdrawn as are in excess of his final award in the proceedings.''*

Limitation on amount of payment.

Section 9. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 14, 1961.

CHAPTER 235

An Act to Amend Section 84-1504, Revised Codes of Montana, 1947, to Provide a Definition of Gross Income in the Computation of Corporation License Tax; and Containing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 84-1504, Revised Codes of Montana, 1947, be, and is hereby amended to read as follows:

Amending clause.

''84-1504. (2299) **Computation of license tax — return of net income to be filed.** (1) The license fee shall be computed upon the total net income of the corporation

Computation—corporation license tax.

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Designation of fiscal year.

received within each preceding calendar year ending December 31; provided, that any corporation subject to this license fee may designate the last day of any month in the year as the day of the close of its fiscal year, and shall be entitled to have the license fee payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment, instead of upon the basis of the net income for the calendar year preceding the date of assessment, and it shall give notice to the state board of equalization of the day it has thus designated as the close of its fiscal year, at any time not less than thirty (30) days prior to the time its return would be filed if made upon the basis of the calendar year.

Notice.

Income return must be made.

"(2) Every corporation, subject to the license fee herein imposed, shall for each year hereafter, for the year ending on the thirty-first day of December, or for its fiscal year selected under the provisions hereof, render a true and accurate return of its annual net income in the manner and form to be prescribed by the state board of equalization, and containing such facts, data and information as are appropriate and in the opinion of the state board of equalization necessary to determine the correctness of the net income returned and to carry out the provisions of this act. The return shall be sworn to by the president, vice-president or other principal officer, and by the treasurer, assistant treasurer, or chief accounting officer. If the corporation is reporting on a calendar year basis the return shall be filed with the state board of equalization on or before the thirty-first day of March in each year, and if reporting on a fiscal year basis the return shall be filed with said board on or before the last day of the third month following the close of its fiscal year. *The term gross income means the income from all sources within the State of Montana recognized in the determination of the corporation's federal income tax liability; but shall include interest exempt from federal income tax.* The term 'net income' means the gross income of the corporation less the allowable deductions. *However, the definitions of gross income and net income set forth in this section shall not be construed as allowing the deductions set forth in section 243 of the federal internal revenue code as now written, or as that section*

Gross income defined.

Net income defined.

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shall be labeled or amended. The term 'fiscal year' means an accounting period of twelve (12) months ending on the last day of any month other than December. Fiscal year defined.

"(3) In cases wherein receivers, trustees in bankruptcy, or assignees are operating the property or business of a corporation subject to the license fee imposed by this act, such receiver, trustee, or assignee shall make the return in the same manner and form as such corporation is hereinbefore required to make return, and any license fee due on the basis of such returns made by the receiver, trustee, or assignee, shall be assessed and collected in the same manner as if assessed directly against the corporation of whose business or property they have custody and control, and shall be paid by such receiver, trustee, or assignee out of the property of the company in his hands, prior to the claims of creditors or stockholders." Return and payment where corporation operated by receiver, etc. Priority.

Section 2. This act shall apply to all taxable years ending after December 31, 1960. Taxable years.

Section 3. This act shall be in force from and after its passage and approval. Effective immediately.

Approved March 14, 1961.

CHAPTER 236

An Act to Amend Section 53-434, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 106, Laws of 1957; Relating to Proof of Financial Responsibility Required Upon Certain Convictions; Deleting Requirement of Proof of Financial Responsibility Under Circumstances Other Than License Revocation; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 53-434, Revised Codes of Montana, 1947, as amended by section 1, chapter 106, laws of 1957, be, and the same is hereby amended to read as follows: Amending clause.

"53-434. **Proof required upon certain convictions.** (a) Whenever the supervisor or the board, under any of the laws of this state, revokes the license of any person upon Suspension of motor vehicle registration on revocation of license.

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receiving record of a conviction or a forfeiture of bail, the supervisor or the board, shall also request and require of the registrar the suspension of the registration for all motor vehicles registered in the name of such person, except that the registrar shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

Proof of financial responsibility required for renewal.

"(b) Such license *shall remain revoked* and *such* registration shall remain suspended and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person nor shall any motor vehicle be thereafter registered in the name of such person until permitted under the motor vehicle laws of this state and not then unless and until he shall give and thereafter maintain proof of financial responsibility.

Proof required for issuance of license and registration.

"(c) If a person is not licensed but by the final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the revocation of a license no license shall be thereafter issued to such person and no motor vehicle shall continue to be registered or thereafter be registered in the name of such person until he shall give and thereafter maintain proof of financial responsibility.

Proof required of nonresident.

"(d) Whenever the supervisor or the board revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail such privilege shall remain so revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 14, 1961.

CHAPTER 237

An Act Relating to and Providing for the Appropriation and Regulation of Ground Water; Defining Terms Used in the Act; Providing for the Appropriation of Ground

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Water; Providing for the Filing of Claims of Vested Ground Water Rights with the State Administrator and County Clerk and Recorder; Providing for the Filing of Notices of Appropriation of Ground Water After the Effective Date of the Act with the State Engineer and County Clerk and Recorder; Providing for Prior Rights; Providing for the Designating and Modifying of Boundaries of Ground Water Areas and Sub-Areas by State Administrator; Authorizing State Administrator to Make Surveys, Investigations and Studies of Ground Waters; Providing for the Limiting of Withdrawals from Ground Water Areas or Sub-Areas by the Supervisor; Providing for Change of Location of Ground Water Wells and Other Works; Providing for Abandonment of Ground Water Rights; Providing Against Waste of Ground Waters and Providing for the Regulation of Wells to Prevent Waste; Providing for a Hearing Before the District Court to Confirm the Orders of the State Administrator; Providing for Appeals; Authorizing County Attorneys to Perform Certain Services; Authorizing State Administrator to Administer Oaths and to Prescribe Reasonable Rules and Regulations; Providing for Fees; Providing Penalties for Violations of the Act; and Repealing Sections 89-2901 to 89-2910 Inclusive, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict with the Provisions of This Act; Providing for a Saving Clause; and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** As used in this act or regulations issued hereunder. Definitions.

(a) "Groundwater" means any fresh water under the surface of the land including the water under the bed of any stream, lake, reservoir or other body of surface water. Fresh water shall be deemed to be water fit for domestic, livestock or agricultural use. The administrator, after notice and hearing, is authorized to fix definite standards for determining fresh water in any controlled groundwater area or sub-area of the state. "Groundwater."

(b) "Aquifer" means any underground geological structure or formation which is capable of yielding water or is capable of recharge. "Aquifer."

(c) "Well" means any artificial opening or excava- "Well."

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tion in the ground, however made, by which groundwater can be obtained or through which it flows under natural pressures or is artificially withdrawn.

"Beneficial use." (d) "Beneficial use" means any economically or socially justifiable withdrawal or utilization of water.

"Person." (e) "Person" means any natural person, association, partnership, corporation, municipality, irrigation district, the State of Montana or any political subdivision or agency thereof, and the United States or agency thereof.

"Administrator." (f) "Administrator" means the state engineer of the State of Montana.

"Groundwater area." (g) "Groundwater area" means an area which, as nearly as known facts permit, may be designated so as to enclose a single and distinct body of groundwater, which shall be described horizontally by surface description in all cases and which may be limited vertically by describing known geological formations should conditions dictate this to be desirable. For purposes of administration, large groundwater areas may be divided into convenient administrative units "known as sub-areas."

Priority of rights—surface water appropriated before January 1, 1962. Section 2. **Rights to use.** Rights to surface water where the date of appropriation precedes January 1, 1962 shall take priority over all prior or subsequent groundwater rights. The application of groundwater to a beneficial use prior to January 1, 1962 is hereby recognized as a water right. Beneficial use shall be the extent and

After January 1, 1962. limit of the appropriative right. As to appropriations of groundwater completed on and after January 1, 1962, any and all rights must be based upon the filing provisions hereinafter set forth, and as between all appropriators of surface or groundwater on and after January 1, 1962,

Right to use groundwater—how obtained. the first in time is first in right. The right to use groundwater may be obtained without a well, as by sub-irrigation and other natural processes, and appropriations by such means are provided for under section 3 hereof. Appropriative rights shall relate only to quantities of water for beneficial uses and not to water levels, means of use, or ease of withdrawal; and appropriative rights shall not apply to minimal household use as provided in section 5 hereof.

Forms for filing. Section 3. **Filing — Notice of appropriation — Notice of completion.** (a) The administrator shall prepare and

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publish forms for the filing by appropriators with the county clerks. They shall be known as a "notice of appropriation" and a "notice of completion," respectively. The notice of appropriation shall require, and provide space for, answers to such questions as: (1) the name and address of the appropriator; (2) the beneficial use for which the appropriation is made, including a description of the lands to be benefited if for irrigation; (3) the rate of use in gallons per minute of groundwater claimed; (4) the annual period (inclusive dates) of intended use; (5) the probable or intended date of first beneficial use; (6) the probable or intended date of commencement and completion of the well or wells; (7) the location, type, size and depth of the well or wells contemplated; (8) the probable or estimated depth of the water table or artesian aquifer; (9) the name, address and license number (if any) of the driller engaged; and (10) such other similar information as may be useful in carrying out the policy of this act.

Notice of appropriation.

The notice of completion shall require answers to the same sort of questions as required for the notice of appriation, except that for the most part it shall inquire as to accomplished facts concerning the well or means of withdrawal, including information as to the static level of water in the casing or the shut-in pressure if the well flows naturally; the capacity of the well in gallons per minute by pumping or by natural flow; the approximate draw down or pumping level of the well; the approximate surface elevation at the well head; the casing record of the well; the drilling log showing the character and thickness of all formations penetrated; the depth to which the well is drilled; and similar information.

Notice of completion.

For the benefit of persons obtaining (or desiring to obtain) groundwater without a well (as by sub-irrigation and other natural processes) a specially prepared "notice of completion" shall be provided, enabling such persons to describe the means of using groundwater and to estimate the amount of water so used, and requiring such other similar information as shall be pertinent to this particular class of user. The administrator shall distribute said forms to the county clerks.

Special notice of completion—where no well.

(b) On and after January 1, 1962, any person desiring to appropriate groundwater may complete a notice of

Notice of appropriation filed with county clerk.

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appropriation and file it with the county clerk of the county in which the appropriation is located.

Clerk shall transmit copies.

(c) Upon the filing of a notice of appropriation, the county clerk shall transmit a copy thereof to the administrator, and to the Montana bureau of mines and geology, retaining the original on file locally.

Well construction must commence within 90 days.

(d) After filing a notice of appropriation, in order to acquire a right based thereon, the person must, within ninety (90) days, commence actual excavation and diligently prosecute construction of a well and, upon its completion, file a notice of completion with the county clerk of the county in which the appropriation is located. The county clerk shall handle and transmit such filed notices as in the case of a filed notice of appropriation.

Notice of completion filed with county clerk.

Effect—failure to file.

(e) A failure to file a notice of appropriation deprives the appropriator of his right to relate his date of appropriation back, and results in the dating of his appropriation as of when he files a notice of completion. Until a notice of completion is filed with respect to any use of groundwater instituted after January 1, 1962, no right to that use of water shall be recognized. However, in the case of uses instituted prior to January 1, 1962 and diligently prosecuted to completion on or after that date, the date of appropriation shall relate back to the date of commencement of construction, upon the filing of a notice of completion.

Relation back.

Filing under oil and gas laws deemed compliance.

(f) Persons required to file well logs and other information under the laws governing the conservation of oil and gas and who do so in compliance therewith, shall be deemed to have complied with all of the filing requirements of this act insofar as it applies to such particular oil and gas wells, salt water disposal wells, and injection wells. The date of appropriation in such cases shall be the date that written notice of intention to drill is given to the oil and gas conservation commission of the State of Montana.

Driller responsible.

(g) It shall be the responsibility of the driller of each well to fill out the notice of completion for the appropriator, and the latter shall be responsible for its filing.

Declaration of vested groundwater rights filed when.

(h) Persons who have put groundwater to a beneficial use, including sub-irrigation or other natural process, prior to January 1, 1962, shall, within two (2) years after

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January 1, 1962, file a declaration in the office of the county clerk of the county in which the claimed right is situated. The declaration shall be made on a form known as a "declaration of vested groundwater rights" and shall contain the following information: (1) the name and address of the claimant; (2) the beneficial use on which the claim is based; (3) the date or approximate date of the earliest beneficial use, and how continuous the use has been; (4) the amount of groundwater claimed; (5) if the beneficial use has been for irrigation, the acreage and description of the lands to which such water has been applied and the name of the owner thereof; (6) the means of withdrawing such water from the ground and the location of each well or other means of withdrawal; (7) the date of commencement and completion of the construction of the well, wells or other works for withdrawal of groundwater; (8) the depth of water table; (9) so far as it may be available, the type, size and depth of each well or the general specifications of any other works for the withdrawal of groundwater; (10) the estimated amount of groundwater withdrawn each year; (11) the log of the formations encountered in the drilling of each well; and (12) such other information of a similar nature as may be useful in carrying out the policy of this act.

Form.

The county clerk shall transmit copies to the office of the administrator, and the bureau of mines and geology. The administrator shall attend to filing copies in any other counties affected by the appropriation.

Clerk shall transmit copies.

The declaration of vested groundwater rights herein provided for shall be taken and received in all courts of this state as prima facie evidence of the statements therein contained.

Evidence.

Failure to comply with this requirement shall in no wise work a forfeiture of such rights, or prevent any such claimant from establishing such rights in the courts, but he must maintain the burden of proving such unrecorded rights. Provided, however, that persons who have filed the water well log form, provided for in section 1 and 2 of chapter 58, session laws of Montana, 1957, shall be deemed to have complied with the requirements of this section. These latter forms may be returned to the county clerks by the administrator for the purpose of correction

Effect of noncompliance.

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or for the entry of material facts necessary to fully complete the filing.

Proposal of area of controlled groundwater use—requirements.

Section 4. **Designation or modification of controlled groundwater areas — Notice of hearings.** Designation or modification of an area of controlled groundwater use may be proposed to the board by the administrator on his own motion or by petition signed by at least twenty (20) or one-fourth (¼) (whichever is the lesser number) of the users of groundwater in a groundwater area wherein there is alleged to be factual data showing: (1) that groundwater withdrawals are in excess of recharge to the aquifer or aquifers within such groundwater area; (2) that excessive groundwater withdrawals are very likely to occur in the near future because of consistent and significant increases in withdrawals from within the groundwater area; or (3) that significant disputes regarding priority of rights, amounts of groundwater in use by appropriators, or priority of type of use are in progress within the groundwater area.

Hearing.

When such a proposal is thus made, the administrator shall fix a time and place for a hearing, which time shall not be less than thirty (30) days from the making of the proposal. The administrator, or the petitioners (as the case may be) shall publish a notice of the hearing setting forth therein

Notice of hearing.

(1) the names of the petitioners;

(2) the description by legal subdivisions of all lands included in the groundwater area or sub-area;

(3) the purpose of the hearings and

(4) the time and place of the hearing where any interested person may appear, either in person or by attorney, file written objections to the granting of the proposal and be fully heard. Such notice of hearing shall be published at least once in each week for three successive weeks before the date of the hearing in a newspaper of general circulation in the county or counties in which the said groundwater area or sub-area is located. The administrator or the petitioners (as the case may be) shall also cause a copy of the notice together with a copy of the petition to be served by mail, not less than twenty (20) days before the hearing on all persons, other than the petitioners, who have theretofore filed a declaration of

Publication.

Service.

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a claim or notice of appropriation to withdraw groundwater from the particular groundwater area or sub-area involved in the proceedings. A copy of the notice together with a copy of the proposal shall be mailed to each person at his last known address and such service shall be complete upon depositing it in the post office, postage prepaid, addressed to each person on whom it is to be served. Publication and mailing of such notice, as prescribed herein, when completed shall be deemed to be sufficient notice of such hearing to all interested persons.

Conduct of hearing— findings and order.

Section 5. **Limiting withdrawals — Hearing and order.** At the time set for the hearing the administrator, if he is satisfied that the notice of hearing has been duly published and mailed as required by section 4, shall proceed to hear evidence and may consider information which he has duly obtained under this act, and after the conclusion of the hearing shall make written findings and an order. If the administrator finds that the withdrawal of groundwater in such area or sub-area exceeds the safe annual yield of groundwater as measured by the recharge of the area or sub-area, he shall order the aggregate withdrawal of groundwater from such area or sub-area decreased so that it shall not exceed such annual yield. Except for domestic use, such decrease shall conform to the priority of the pertinent rights and shall prevail for the term of shortage in the available supply. The administrator shall have the authority to enforce the order; to require persons to cease such excessive withdrawals in reverse order of their priority of rights; and to bring an action for an injunction in a district court of a district in which all or part of the area affected is located, in addition to all other remedies.

Authority given administrator.

Publication and mailing of copies of orders.

The order of the administrator shall be published and mailed by the administrator in the manner and for the length of time as prescribed by section 4 of this act for the publication and mailing of the notice of hearing except that a copy of the written findings of the administrator shall be mailed instead of a copy of the proposal, and except further, that a copy of the order together with a copy of the written findings shall be mailed to each petitioner at his last known address. Upon publication and mailing of such order, as prescribed herein, the order shall be final and conclusive unless an appeal therefrom

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is taken within the time and in the manner prescribed in section 10 of this act.

Modification or revocation of orders.

Once a petition has been filed and an order has been made limiting the withdrawal of groundwater from a particular groundwater area or sub-area, as provided in this section, the administrator shall have authority after notice and hearing as heretofore provided in this section, to modify or revoke his order upon a showing by any interested party and a finding by the administrator that conditions have materially changed since the prior order. While a matter is pending before the administrator, the administrator shall have discretion and authority to restrict further development of the sub-area.

Who may initiate hearing— ascertainment of rights.

Section 6. **Administrative finding of priorities.** Any person claiming a right to withdraw groundwater (whether or not from a controlled area) or the administrator at his discretion, may initiate a hearing by the administrator for the ascertainment of all existing rights to the use of the groundwater in the groundwater area or sub-area involved. The administrator shall produce at the hearing a map showing and describing all the lands included in the groundwater area or sub-area, and copies of all data upon which any prior designation or modification order was based. The waiving or assignment of rights by mutual agreement for either temporary or extended periods, shall not modify or cancel the relative priorities of the rights.

Jurisdiction— water in oil and gas production.

Within any designated or modified controlled groundwater area or sub-area wherein oil and/or gas wells produce either fresh, brackish, or saline water associated with oil and gas, the volume of production of which is dependent entirely on the oil and/or gas withdrawals, such production of water shall be under the prior jurisdiction of the Montana oil and gas conservation commission. Hearings pertaining to the production, use, or disposal of water from such wells shall be held by the said commission in accordance with the procedures established by that commisison. The administrator may petition the Montana oil and gas conservation commission for hearings in regard to such operations and shall be notified by the Montana oil and gas conservation commission of any such hearings instigated by other parties, when such hearings involve

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operations within a controlled groundwater area or sub-area.

Appropriators shall be included in hearings.

Hereafter, in any such hearing for the ascertainment and finding of priorities, involving rights to the use of groundwaters, all appropriators of groundwater or of surface water in the particular controlled area, or sub-area shall be included as parties and notified in the manner provided in section 4 hereof.

Scope of administrative hearing.

Section 7. **Scope of administrative hearing.** In any hearing for the ascertainment and finding of priorities to the use of groundwater, the administrator in his finding and order shall confirm, modify, alter or amend any prior order designating and modifying the boundaries of the groundwater area or sub-area involved, as the evidence justifies, shall determine the priority of rights and the quantity of groundwater to which each appropriator, who is a party to the proceedings, shall be entitled in such particular groundwater area or sub-area, and shall find and determine any other matter necessary to the ascertainment of priorities of such existing rights to groundwater. He may also determine the level below which the groundwater shall not be drawn by appropriators. The administrator shall act in administering and enforcing the provisions of the order, as provided in section 5 hereof.

Order recorded.

A copy of the order shall be recorded in the office of the clerk and recorder of each county in which the particular groundwater area or sub-area is located. If the order is not appealed within the time limit and otherwise as is provided in section 10 of this act, the order of the administrator shall be final and conclusive when it is published and mailed as provided for orders issued under section 5 hereof.

Appropriator must secure permit.

Section 8. **Permit required to appropriate in controlled area.** Persons desiring to appropriate groundwater in a controlled area, must file a notice of appropriation stamped "permit requested," and shall not commence the drilling or excavation of a well until the administrator has reviewed the notice of appropriation and issued an order either granting or denying the appropriator a permit to proceed with the appropriation, by stamping the notice of appropriation "permit granted" or "permit denied," and affixing his signature thereon.

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Limitation on granting of permit.

The administrator shall act promptly upon any such request. The administrator shall not grant a permit if the withdrawal would be beyond the capacity of the aquifier or aquifers in the groundwater area to yield groundwater within a reasonable or feasible pumping lift (in the case of pumping developments) or within a reasonable or feasible reduction of pressure (in the case of artesian developments). The administrator shall cause a notice of his order to be served by mail on the applicant and on each owner of a decreed right to use groundwater in the particular groundwater area or sub-area from which the license is sought. Such order shall be mailed to the applicant at the address shown on the application and to each such owner of a decreed right at the address shown on the administrator's records. Service shall be complete upon depositing such order in the post office, postage prepaid, addressed to the person on whom it is to be served. Upon its mailing, the order shall be final and conclusive unless a hearing is obtained within the time and in the manner prescribed in section 9 of this act.

Service by mail—notice of order.

Hearing for review.

Section 9. **Hearing.** Any person aggrieved by any order of the administrator, including any applicant for a license who is dissatisfied with the order of the administrator as made under the provisions of section 8 of this act, and any holder of a groundwater right who is dissatisfied with the order of the administrator in granting an applicant a license to appropriate water under section 8 of this act, may obtain a hearing by the administrator to review the decision. Said hearing shall be taken by filing a verified petition with the administrator within thirty (30) days following the date of the making of the order and service of said order on the petitioner. The petition shall contain a copy of the notice of appropriation filed with the administrator, a copy of the order of the administrator, shall state the location of the particular groundwater area or sub-area, the amount of groundwater sought to be appropriated, and shall contain a brief statement of the reason or reasons why the order of the administrator is believed to be unsound. The petitioner shall publish a notice of the hearing, and serve notice of the hearing and petition by mail, as provided for petitioners for a hearing under section 4 of this act. At the hearing the administrator shall receive evidence,

Petition—requirements.

Publication and service of notice.

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make findings, and issue an order sustaining, reversing, or modifying his prior order.

Order final—when.

If this order of the administrator is not appealed within the time limit and otherwise as is provided in section 10 of this act, the order of the administrator shall be final and conclusive when it is issued.

Appeal to district court.

Section 10. **Appeals.** Within sixty (60) days after notice is given of any order or determination by the administrator any party affected thereby may appeal to the district court of the judicial district of the State of Montana, in and for a county wherein all or any part of the groundwater area or sub-area affected is situated, and said appeal shall be for the purpose of having the lawfulness of the order or determination inquired into and determined.

Notice of appeal.

Section 11. **How appeal taken — Notice — Record — Trial.** Said appeal shall be taken by serving a written notice of said appeal upon the administrator and filing the original with the clerk of the court to which said appeal is taken. A copy of such notice must also be served upon any adversary parties, if there be any, by mailing the same to said adversary parties at their last known addresses. Immediately upon service upon said administrator of said notice, the administrator shall certify to said district court the entire record and proceedings, including all testimony and evidence taken by said administrator, with the clerk of said district court. Immediately upon the return of such certified record, the district court shall fix a day for the hearing of said cause, and shall cause notice to be served upon the administrator and upon the appellant, and also upon any adversary parties, if there be any. The court may, upon the hearing, for good cause shown, permit additional evidence to be introduced, but, in the absence of such permission from the court, the cause shall be heard on the record of the administrator, as certified to the court. The trial of the matter shall be de novo, and upon such trial the court shall determine whether or not the administrator regularly pursued his authority, and whether or not the findings of the administrator ought to be sustained, and whether or not such findings are reasonable under all the circumstances of the case.

Certification of record.

Notice of hearing.

Trial de novo.

Appearance.

Section 12. **Appearance — Setting aside conclusions.**

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orders, etc., of administrator — Judgment and findings. The administrator and each party to the action or proceeding before the administrator shall have the right to appear in the proceeding and it shall be the duty of the administrator to so appear. If the court shall find from such trial, as aforesaid, that the findings and conclusions of the administrator are not in accordance with either the facts or the law, or that they ought to be other or different than those made by the administrator, or that any finding and conclusion, or any order, or determination of the administrator is unreasonable, the court shall set aside such finding, conclusion, order or determination of said administrator, or shall modify or change the same as law and justice shall require, and the court shall also make and enter any finding, conclusion, order or judgment that shall be required, or shall be legal and proper in the premises.

Court may set aside.

Judgment and findings.

Appeal to supreme court.

Section 13. **Appeals to supreme court.** Either the administrator or the appellant, or any adversary party, if there be any, may appeal to the supreme court of the State of Montana from any final order, judgment, or decree of the said district court, which said appeal shall be taken in like manner as appeals are now taken in other civil actions to the said supreme court, and upon such appeal the said supreme court shall make such orders in reference to a stay of proceedings as it finds to be just in the premises, and may stay the operation of any order, judgment, or decree of said district court, without requiring any bond or undertaking from the applicant for such stay.

Change of location.

Section 14. **Change of location.** An appropriator of groundwater may change the location of his well or other works for obtaining water without loss of priority to a point within the same area or sub-area if others are not thereby injured. He shall notify the administrator of any such change.

Beneficial purpose--- abandonment.

Section 15. **Appropriation must be for a useful purpose — Abandonment.** The appropriation must be for some beneficial purpose and when the appropriator or his successor in interest abandons and ceases to use the water for such purpose, the right ceases; but questions of abandonment shall be questions of fact and shall be determined as other questions of fact.

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Waste, contamination and pollution shall be prevented.

Section 16. **Waste and contamination of groundwater prohibited — Exception — Duties of administrator.** No groundwaters shall be wasted without beneficial use. The administrator shall require all wells producing waters which contaminate other waters to be plugged or capped. He shall also require all flowing wells to be so capped or equipped with valves that the flow of water can be stopped when the water is not being put to beneficial use. Likewise, both flowing and non-flowing wells shall be so constructed and maintained as to prevent the waste, contamination or pollution of groundwaters through leaky casings, pipes, fittings, valves, or pumps either above or below the land surface, provided however, in the following cases the withdrawal or use of groundwater shall not be construed as waste under this act:

(1) the withdrawal of reasonable quantities of groundwater in connection with the construction, development, testing, or repair of a well or other means of withdrawal of groundwaters;

(2) the inadvertent loss of groundwater owing to breakage of a pump, valve, pipe, or fitting, if reasonable diligence is shown by the person in effecting the necessary repair;

(3) the disposal of groundwater without further beneficial use that must be withdrawn for the sole purpose of improving or preserving the utility of land by draining the same, or that removed from a mine to permit mining operations or to preserve the mine in good condition;

(4) the disposal of groundwater used in connection with production, for reduction, smelting and milling metallic ores and industrial minerals, or that displaced from an aquifer by the storage of other mineral resources.

The administrator at any time may hold a hearing on his own motion, or upon petition signed by a representative body of users of groundwater in any area or sub-area, to determine whether the water supply within such area or sub-area is used in compliance with this act.

Right of entry for inspection.

Section 17. **Inspection — Entry on premises.** The administrator or any assistant, any representative of the state bureau of mines and geology or the state board of health, shall have the right of entry on the property of

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any appropriator, where a well is situated, at any reasonable hour of the day, for the purpose of investigating any matters in connection with this act.

Public record.

Section 18. **Information available to public.** Such information as is required or secured under the provisions hereof shall constitute public records, and as such shall be available to the public at all reasonable times.

Reports additional.

Section 19. **Reports to be in addition to other reports required.** The forms, reports and information required to be filled by this act shall be in addition to all other reports and information which the drillers of water wells in the State of Montana are required by law to file with agencies of the State of Montana.

Duties of public officials.

Section 20. **Duty of county attorneys and attorney general.** The county attorneys and the attorney general of the state shall perform such legal services and bring such legal proceedings in carrying out the purpose of this act within their respective counties as the administrator shall request.

Administrator shall regulate.

Section 21. **Rules and regulations.** The administrator may prescribe and enforce reasonable rules and regulations concerning and providing for inspection and entry for that purpose by the administrator or his official representative; the circumstances under which the construction of weirs or other measuring devices may be required; and such other similar matters as are required by, and consistent with the administration of this act.

Administrator may appoint supervisors.

Section 22. **Groundwater supervisors — Duties.** The administrator may appoint one or more groundwater supervisors for each designated controlled area, and may appoint one or more groundwater supervisors at large. Within their respective jurisdictions and under the direction of the administrator, the groundwater supervisors and supervisors at large shall supervise the withdrawal of groundwater and the carrying out of orders issued by the administrator.

Investigations.

Section 23. **Investigations.** It shall be the duty of the administrator to compile information for the purpose of enabling him to comply with the provisions of this act. In compiling such information, the administrator is directed to make use of investigations, technical personnel,

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surveys, and information available from the Montana bureau of mines and geology, the United States geological survey, the Montana oil and gas conservation commission, the state board of health, and any other private, state, or governmental agency.

In addition to the foregoing, the administrator may request specific investigations by the preceding public agencies where desired information is not otherwise available.

Powers—oaths and subpoenas.

Section 24. **Power to administer oaths and subpoena witnesses.** The administrator shall have the power to administer oaths and to issue subpoenas for the attendance of witnesses, in any investigation hearing or proceeding held by him.

Filing fees.

Section 25. **Fees.** For the filing of any notices, declarations, applications for a license, petition, or other matters with the county clerks, or administrator, a fee of two dollars ($2.00) for each such document shall be paid. Fees paid to the administrator shall be paid by him to the general fund of the state; fees paid to the county clerks shall be paid by them to the general fund of their respective counties.

Penalties.

Section 26. **Penalties.** Any person who violates or refuses or neglects to comply with any provision of this act, or of any order, rule or regulation promulgated by the administrator, or who commits waste, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars ($25.00) nor more than two hundred and fifty dollars ($250.00) for each offense.

Severability clause.

Section 27. **Severability.** If any provision of this act, or the application thereof to any person or circumstance, is held unconstitutional, the remainder of the act, or the application of such provisions to other persons or circumstances, shall not be affected thereby.

Repealing clause.

Section 28. Chapter 218, laws of 1947, Revised Codes of Montana, 1947, section 89-2901 through 89-2910, chapter 58, laws of 1957, Revised Codes of Montana, 1947, section 89-3101 through 89-3103, and all acts and parts of acts in conflict with the provisions of this act are hereby repealed; provided, that this act shall not constitute a repeal of sections 69-1311 to 69-1313.

Saving clause.

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Effective January 1, 1962.

Section 29. **Effective date.** This act shall take effect on and after January 1, 1962.

Approved March 14, 1961.

CHAPTER 238

An Act Relating to Ambulance Service in Counties, Cities and Towns; Permitting a County, City or Town, Acting Alone or With Another County, City or Town to Establish and Maintain Such Ambulance Service Upon Receipt of a Petition Signed by Fifty Per Centum (50%) of the Taxpayers Listed on the Last-Completed Assessment Roll; Authorizing the County, City and Town to Contract for Facilities and Equipment and Operators or Attendants, to Adopt Rules and Establish Fees; and Providing for a Retention of Existing Service.

Be it enacted by the Legislative Assembly of the State of Montana:

City, county or town may establish ambulance service.

Section 1. A county, city or town, acting through its governing body, may establish and maintain an ambulance service for such county, city or town, and it may also contract with another county, city or town to establish and maintain a joint ambulance service and to share the costs, such costs to be apportioned according to the benefits to accrue, the proportion to be paid by each to be fixed in advance by joint resolution by the respective governing bodies, if the governing body has received a petition signed by fifty per centum (50%) of the taxpayers who are listed on the last-completed assessment roll.

Operation.

Section 2. If a county, city or town establishes or maintains such ambulance service it may, acting through its governing board:

(1) Operate the service itself or contract for such service;

(2) Buy, rent, lease or otherwise contract for vehicles, equipment, facilities, operators or attendants;

(3) Adopt rules and establish fees or charges for the furnishing of such ambulance service.

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Existing services not affected.

Section 3. The provisions of this act shall in no way affect county, city or town ambulance service in operation at the time of its passage.

Approved March 14, 1961.

CHAPTER 239

An Act Relating to Classification of Property for Taxation to Provide for the Encouragement of New Industry in the State of Montana by Establishing a Separate Classification for New Industrial Property During the First Three (3) Years of Operation; Amending Section 84-301, Revised Codes of Montana, 1947, as Last Amended by Chapter 88 of the Laws of Montana, 1957, to Provide a Classification for New Industrial Property; Amending Section 84-302, Revised Codes of Montana, 1947, to Provide a Basis for Imposition of Taxes on New Industrial Property; Repealing All Acts and Parts of Acts in Conflict Herewith; Containing a Severability Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose of act—establishment of new industry.

Section 1. **Statement of Purpose.** The legislative assembly of the State of Montana hereby declares that it is in the best interests of the people of this state to encourage and stimulate the establishment of new industry within Montana. It recognizes that a new industrial plant does not reach full productivity and competitive capacity during the initial years of its operation. Since taxation of property should be related to property in proportion to its use, productivity, utility, and general setting in the economic organization of society, the purpose of this act is to provide a separate classification for new industrial property which gives proper recognition to these factors and places such property in the proper class for taxation purposes.

Amending clause.

Section 2. Section 84-301, Revised Codes of Montana, 1947, as last amended by chapter 88 of the laws of Montana, 1957, is hereby amended to read as follows:

Classification of property for taxation.

"84-301. (1999) **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

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Mines and mining claims.

"Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Chattels.

"Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds, boats and all water craft, harness, saddlery and robes.

Livestock, poultry, merchandise, etc.

"Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith; and all office or hotel furniture and fixtures.

Land.

"Class Four. All land, town and city lots, with improvements, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in class five *or class seven.*

Moneys and credits.

"Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms 'moneys and credits' as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

Public utilities.

"(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical

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and co-operative rural telephone associations organized under the laws of Montana.

"(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both. Raw products.

"Class Six. Property formerly included in this class is now classified by section 84-308 of the Revised Codes of Montana, 1947.

"Class Seven. *All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961 within the State of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner and form as may be required by said board.* New industrial property.

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Other property.

"Class Eight. All property not included in the seven preceding classes."

Amending clause.

Section 3. Section 84-302, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Basis for imposition of taxes.

"84-302. (2000) **Basis for imposition of taxes.** As a basis for the imposition of taxes upon the different classes of property specified in the preceding section, a percentage of the true and full value of the property of each class shall be taken as follows:

"Class 1. One hundred per cent of its true and full value.

"Class 2. Twenty per cent of its true and full value.

"Class 3. Thirty-three and one-third per cent of its true and full value.

"Class 4. Thirty per cent of its true and full value.

"Class 5. Seven per cent of its true and full value.

"Class 6. Forty per cent of its true and full value.

"Class 7. *Seven per cent of its true and full value.*

"Class 8. Forty per cent of its true and full value."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Severability clause.

Section 5. If any provision of this act, or the application thereof to any person or circumstance, is held unconstitutional, the remainder of the act, or the application of such provisions to other persons or circumstances, shall not be affected thereby.

Approved March 14, 1961.

CHAPTER 240

An Act Relating to the Right of Eminent Domain; Providing That Whenever the Right of Eminent Domain is Exercised to Acquire Interests in the Surface of Property to Mine and Extract Ores, Metals or Minerals Located Beneath or Upon the Surface of Property, the Decree Shall be Granted Only on Condition That the

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Plaintiff Agree to Purchase Property Located Within a Distance of Three Hundred (300) Feet; Providing for the Filing of a Plat or Plats; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Requirements—right of eminent domain for open pit mining.

Section 1. Whenever the right of eminent domain is exercised to acquire estates and rights in land for the purpose of open pit mining of the ores, metals or minerals owned by the plaintiff, the decree shall be granted on condition that the plaintiff protects the public in the immediate area by agreeing to purchase all residential property within three hundred (300) feet of the surface tract condemned, including vacant lots in a residential area, provided the owner or owners thereof serve upon the plaintiff and file with the court a written offer stating the amount asked for such property within thirty (30) days from the entry of the court order appointing commissioners in said eminent domain proceeding. In the event the plaintiff and the owner or owners are unable to agree upon the compensation to be paid for such property, the court, upon petition of either party, may proceed to determine the compensation to be paid for such property in the manner prescribed in title 93, chapter 99, Revised Codes of Montana, 1947, as amended, for ascertaining the value of property taken through the exercise of the right of eminent domain.

Determination of compensation.

Alternate facilities.

Section 2. Whenever it is sought to condemn streets, roads, alleys or highways for the purposes stated in section 1 hereof there shall also be attached to the complaint for condemnation a plat or plats showing the alternate facilities to be proposed and paid for by the plaintiff, and the court, in its final order of condemnation, may order the plaintiff to construct such reasonable and adequate alternate facilities as it deems appropriate under the circumstances.

Measure of compensation.

Section 3. The measure of compensation for the residential property located within three hundred (300) feet of the surfaced tract condemned shall be the fair market value or the value of similar residential property in a similar area not affected by open pit mining operations, whichever the owner of the surface property shall elect to receive.

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Notice must be served or plat filed.

Section 4. Any party seeking to condemn property for open pit mining purposes shall serve notice in writing on all residential property owners who reside within three hundred (300) feet of the surface tract sought to be condemned or in lieu thereof shall file a plat showing the boundaries of the property sought to be condemned in the office of the county clerk and recorder, and the filing of said plat shall constitute notice to the owner or owners not personally served with written notice as herein provided.

Effective immediately.

Section 5. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 14, 1961.

CHAPTER 241

An Act to Amend Section 46-2305 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 13, Session Laws of 1949; Section 1, Chapter 124, Session Laws of 1953; Section 2, Chapter 257, Session Laws of 1955, Relating to the Compensation of the Secretary of the Grass Conservation Commission; Section 46-2331 of the Revised Codes of Montana, 1947, Relating to the Fee Imposed by the Commission Against the Districts; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 46-2331 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Grass conservation commission may impose grazing fees—disposition of proceeds.

"Section 46-2331. **Fees may be imposed by commission against districts.** The state grass conservation commission shall have authority and right to impose such fees against the several state grazing districts of the State of Montana and in an amount not in excess of *ten* cents *(10¢)* per animal unit based upon the number of animal units per year for which the district grants permits, to defray any or all expenses created by the state grass conervation commission, and said state grass conservation commission shall from such fees and collections *pay one per cent (1%) of said fees and collections to the state*

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treasurer to be placed in the general fund, and shall repay to the state treasurer of Montana any and all appropriations provided by the State of Montana for the establishment of this commission and the administration of this act when so collected. When such appropriation by the State of Montana is repaid, the balance of such funds shall be held in the state grass conservation fund, herein created, to be expended by order and direction of the state grass conservation commission for the further administration of the commission, and thereafter said commission shall be maintained by funds obtained from the livestock fees hereinbefore provided. If any state district fails or refuses to pay such fee or fees on or before the first day of May of each year, and after such district shall have been provided with a full report from the commission of all moneys collected and expended by it for its fiscal year next preceding that date, the commission shall have authority to compel and levy, collection and payment by writ of mandate or other appropriate remedy against said state district."

Enforcement of collection.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 15, 1961.

CHAPTER 242

An Act to Amend Section 75-3413, Revised Codes of Montana, 1947, Relating to School Transportation; Providing for Reimbursement to School Districts and County High Schools From the State Public School Equalization Fund; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-3413, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"75-3413. **Reimbursements.** (a) Each school district and each county high school meeting the requirements of this act shall be entitled to reimbursement from *such moneys in* the state public school *equalization* fund *as may be appropriated by the legislature for transportation,* in an amount *not to exceed* one third (⅓) of the schedule

Reimbursement for school transportation—equalization fund.

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provided for transportation, or services rendered in lieu of transportation, *semi*-annually on presentation to the state superintendent of public instruction, through the office of the county superintendent of schools, of certified claims for such reimbursement using for such purpose the forms provided by the state superintendent of public instruction. A school bus route which travels through several school districts shall have the county and state reimbursement pro-rated among the school districts which are served by this bus route by the county transportation committee and that the schedules provided in this act for individual transportation and bus transportation or services in lieu thereof, shall be used instead of any schedule which may have been heretofore or may hereafter be fixed and promulgated by the state board of education. In determining the cost of transportation or services in lieu thereof, no amount shall be included except those which have been paid out by a school district or county high school in the regular manner provided for the payment of other financial obligations for the maintenance of their schools.

Reimbursement for school transportation—county common school fund.

"(b) Each school district maintaining one or more elementary schools, or providing for the transportation of its elementary pupils to attend school in another district, meeting the requirements of this act, shall be entitled to reimbursement from the county common school fund provided by the tax levy authorized and made in accordance with the provisions of section 75-3706, as amended, of one-third (⅓) of the schedule provided for transportation, or services rendered in lieu thereof, semi-annually, such reimbursement to be made on duplicates of the certified claims for reimbursement by the state. No apportionment shall be made of such common school fund in either June or December in each year until after such reimbursements therefrom have been made to such school districts.

Special transportation.

"(c) The limitations on state reimbursement set forth in this act shall not apply to special transportation provided in connection with special education programs in accordance with the provisions of section 75-5003."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1961.

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CHAPTER 243

An Act to Amend Section 32-1123, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 250 of the Laws of 1955, as Amended by Section 1, Chapter 221 of the Laws of 1959, Relating to Size and Weight of Motor Vehicles Operating Over and Upon the Highways of the State of Montana, Providing That No Single Truck Shall Have An Overall Length in Excess of Thirty-five (35) Feet; Providing That No Tractor, Semitrailer, Full Trailer or Combination of Vehicles Shall Have An Overall Length in Excess of Sixty (60) Feet; No Vehicle Shall Tow Any Combination of Vehicles in Excess of Sixty (60) Feet; Deleting From Section 32-1123, Revised Codes of Montana, 1947, All of Subsection (4) Pertaining to Speed; Amending Section 32-1124, Revised Codes of Montana, 1947, Adding the Words and Numbers Section Number 32-1123; Amending Section 32-1125, Revised Codes of Montana, 1947; Changing the Manner of Penalizing Violators of Section 32-1123, and Setting Forth Schedule of Graduated Fines and Providing for Monthly Remittances of Said Fines to the State Treasurer; Amending Section 32-1126, Revised Codes of Montana, 1947, Requiring Employees of the State Highway Commission Engaged in the Enforcement of This Act to Wear Identification Badges; Giving the State Highway Commission Discretion to Authorize Uniform Dress for These Employees; Requiring the Unloading of Vehicles and the Care of Unloaded Material to be at the Risk of the Owner; Amending Section 32-1127, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 254, Laws of 1955, Relating to the Permits for Excess Size and Weight of Motor Vehicles; Authorizing the State Highway Commission to Grant Special Permits for Excess Size and Weight in the Public Interest, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-1123, Revised Codes of Montana, 1947, as amended by section 1, chapter 250 of the laws of 1955, as amended by section 1, chapter 221 of the laws of 1959, be, and the same is hereby amended to read as follows:

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Standards of maximum dimensions and weights—motor vehicles.

"32-1123. **Standards of maximum dimensions, weights, speeds, etc.** The following standards are hereby made applicable to, and shall govern the maximum dimensions *and* weights of motor vehicles, and other characteristics and factors thereof, operating over the highways of, and in the State of Montana, to the exclusion of any other standards or any other requirements respecting the subject matter:

Width.

"(1) Width — No vehicle, unladen or with load, shall have a total outside width in excess of ninety-six (96) inches, except busses which may have a total outside width not to exceed one hundred two (102) inches, and such bus width shall be allowed only on paved highways twenty (20) feet or more in width; provided, however, that this restriction does not apply to implements of husbandry moved or propelled upon the highway during daylight hours for a distance of not more than fifty (50) miles, if the movement is incidental to the farming operations of the owner of the implement of husbandry; provided, further, that with respect to such implements of husbandry having a width in excess of twelve (12) feet, it shall be preceded and followed by flagmen escorts for the purpose of warning other highway users.

Height.

"(2) Height — No vehicle, unladen or with load, shall exceed a height of thirteen (13) feet, six (6) inches.

Length.

"(3) Length — (a) No single truck, unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of *thirty-five (35)* feet.

"(b) No single bus, unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of forty (40) feet.

"(c) No combination of (1) truck-tractor and semitrailer, (2) truck and trailer, or other combination of vehicles, shall consist of more than two units except that, at the discretion of the state highway commission, they may permit combinations of vehicles of not more than three units consisting of (3) tractor-semitrailer-semitrailer converted to full trailer by use of a dolly equipped with fifth wheel which shall be considered a part of the trailer for all purposes and not as a separate unit, or (4) tractor-semitrailer-full trailer, and no such combination of vehicles, unladen or with load, shall have an overall

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length, inclusive of front and rear bumpers, in excess of *sixty (60)* feet, provided that when the combination consists of more than two (2) units the rear unit of such combination shall be equipped with breakaway brakes.

"(d) No motor vehicle shall tow more than one motor vehicle and no motor vehicle shall draw more than two motor vehicles attached thereto by the dual saddlemount method, that is by mounting the front wheels of one vehicle on the bed of another leaving the rear wheels only of such vehicle in contact with the roadway, nor shall such combination have an overall length, inclusive of front and rear bumpers, in excess of *sixty (60)* feet.

"(e) No passenger vehicle or truck of less than two thousand (2,000) pounds 'manufacturers' rated capacity' shall tow more than one (1) trailer or semitrailer, nor shall such combination have an overall length, inclusive of front and rear bumpers, in excess of sixty (60) feet.

Permissible loads.

"*(4)* Permissible loads — (a) No axle shall carry a load in excess of eighteen thousand (18,000) pounds. An axle load shall be defined as the total load transmitted to the road by all wheels whose centers may be included between two (2) parallel transverse vertical planes forty (40) inches apart, extending across the full width of the vehicle.

"(b) The gross weight of any group of axles of any vehicle or combination of vehicles, when the distance between the first and last axles of any group of axles is eighteen (18) feet or less, and the gross weight of any vehicle when the distance between the first and last axles of all the axles of the vehicles is eighteen (18) feet or less, shall not exceed that set forth in the following table of weights:

Distance in feet between the first and last axles of any group of axles of any vehicle or combination of vehicles, or between the first and last axles of all of the axles of any vehicle.	Maximum gross weight, in pounds, of any group of axles of any vehicle or combination of vehicles, or of any vehicle.
4	32,000
5	32,000
6	32,200

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7	32,900
8	33,600
9	34,300
10	35,000
11	35,700
12	36,400
13	37,100
14	43,200
15	44,000
16	44,800
17	45,600
18	46,400

"(c) The gross weight of any vehicle or combination of vehicles, where the distance between the first and last axles of the vehicle or combination of vehicles is more than eighteen (18) feet, shall not exceed that set forth in the following table of weights:

Distance in feet between the first and last axles of all of the axles of a vehicle or combination of vehicles.	Maximum gross weight, in pounds, of any vehicle or combination of vehicles.
18	46,400
19	47,200
20	48,000
21	48,800
22	49,600
23	50,400
24	51,200
25	55,250
26	56,100
27	56,950
28	57,800
29	58,650
30	59,500
31	60,350
32	61,200
33	62,050
34	62,900
35	63,750
36	64,600
37	65,450
38	66,300
39	68,000

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40	70,000
41	72,000
42	73,280
43	73,280
44	73,280
45	73,280
46	73,280
47	73,280
48	73,280
49	73,280
50	73,280
51	73,280
52	73,600
53	74,400
54	75,200
55	76,000
56	76,400
57	76,800

"(d) The distance between axles shall be measured to the nearest foot. When a fractional measurement is exactly one-half (½) foot the next larger whole number shall be used.

"(e) The maximum axle and axle group loads stated in paragraphs (a), (b) and (c) of clause *(4)* above are subject to reasonable reduction in the discretion of the state highway commission during periods when road subgrades have been weakened by water saturation or other causes.

"(f) The operation of vehicles or combinations of vehicles having dimensions or weights in excess of the maximum limits herein recommended shall be permitted only if and when authorized by special permit issued by the state highway commission or its officers, supervisors or agents acting pursuant to duly delegated authority from said commission, including the *Montana* highway patrol."

Section 2. That section 32-1124, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"32-1124. **Violation of act a misdemeanor.** It shall be unlawful and constitute a misdemeanor for any person, firm or corporation to violate any of the provisions of *section 32-1123.* Violation.

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Amending clause.

Section 3. That section 32-1125, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Penalties.

"32-1125. **Penalties.** Any person, firm or corporation *shall be punished by a fine of not less than fifteen dollars ($15.00) nor more than fifty dollars ($50.00), excepting as provided below, or by imprisonment in the county or municipal jail for not less than five (5) days nor more than twenty-five (25) days. Any person, firm or corporation convicted of the offense of operating a motor vehicle upon the public highways of this state with weight upon any wheel, axle or group of axles or upon more than one thereof greater than the maximum permitted by section 32-1123, and acts amendatory thereto, shall be fined in addition to and not in substitution for any and all penalties now provided by law for such offense, the following amounts:*

"Fifteen dollars ($15.00) for any excess weight up to and including two thousand (2,000) pounds.

"Twenty-five dollars ($25.00) for any excess weight more than two thousand (2,000) pounds and less than four thousand and one (4,001) pounds.

"Thirty-five dollars ($35.00) for any excess weight more than four thousand (4,000) pounds and less than six thousand and one (6,001) pounds.

"Fifty dollars ($50.00) for any excess weight more than six thousand (6,000) pounds and less than eight thousand and one (8,001) pounds.

"Eighty dollars ($80.00) for any excess weight more than eight thousand (8,000) pounds and less than ten thousand and one (10,001) pounds.

"One hundred ten dollars ($110.00) for any excess weight more than ten thousand (10,000) pounds and less than twelve thousand and one (12,001) pounds.

"One hundred and fifty dollars ($150.00) for any excess weight more than twelve thousand (12,000) pounds and less than fourteen thousand and one (14,001) pounds.

"Two hundred dollars ($200.00) for any excess weight more than fourteen thousand (14,000) pounds and less than sixteen thousand and one (16,001) pounds.

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"Two hundred fifty dollars ($250.00) for any excess weight more than sixteen thousand (16,000) pounds and less than eighteen thousand and one (18,001) pounds.

"Three hundred dollars ($300.00) for any excess weight more than eighteen thousand (18,000) pounds and less than twenty thousand and one (20,001) pounds.

"Five hundred dollars ($500.00) for any excess weight more than twenty thousand (20,000) pounds and less than twenty-five thousand and one (25,001) pounds.

"One thousand dollars ($1,000.00) for any excess weight more than twenty-five thousand (25,000) pounds.

"All complaints filed and all summonses or notices to appear, issued pertaining to violations of the gross weight regulations of this act, shall specify the amount of the overweight, which the defendant is alleged to have had upon the vehicle or combination of vehicles.

"All fines and forfeitures shall be remitted monthly by the county treasurer to the state treasurer for deposit in the state general fund."

Amending clause.

Section 4. That section 32-1126, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Officers may require removal of overload.

"32-1126. (1751.5) **Officers may weigh vehicles and require removal of excessive loads.** Any peace officer, officer of the Montana highway patrol, or employees of the *state* highway commission having reason to believe that the weight of a vehicle and load is unlawful are authorized and empowered to weigh the same, either by means of portable or stationary scales, and may require that such vehicle be driven to the nearest scales in the event such scales are within two (2) miles. The peace officer, officer of the Montana highway patrol, *or* employees of the *state* highway commission may then require the driver to unload immediately such portion of the load as may be necessary to decrease the weight of such vehicle to conform to the maximum allowable weights specified in *section 32-1123.*

Removal of commodities at risk of owner or operator.

"All commodities and material so unloaded as required by this section shall be cared for and removed from the highway right of way by the owner or operator of such vehicle at the risk of such owner or operator. Such re-

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moval shall be within such reasonable time as may be designated by the peace officer, officer of the highway patrol, or employees of the Montana state highway commission who has compelled such unloading.

Employees shall display badge.

"Employees of the state highway commission engaged in the enforcement of this act shall wear and prominently display an identification badge or device with the employee's name and title shown thereon. The state highway commission may in its discretion authorize uniform dress for state highway commission employees engaged in the enforcement of this act."

Amending clause.

Section 5. That section 32-1127, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Special permits for excess size and weight may be obtained.

"32-1127. (1751.6) **Permits for excess size and weight.** The state highway commission, and local authorities in their respective jurisdiction, may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing, authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified in this act upon any highway under the jurisdiction of and for the maintenance of which the body granting the permit is responsible; provided, however, that *only the state highway commission shall have the discretion to issue permits for movement of vehicles* carrying built-up or reducible loads in excess of nine (9) feet in width or exceeding the length, height, or weight specified in this act *said permit shall be issued in the public interest; provided, however, that any carrier receiving this permit must have* public liability and property damage insurance for the protection of the traveling public as a whole. No permit shall be issued for a period of more than nine (9) months.

"The applicant for any special permit shall specifically describe the vehicle or vehicles and load to be operated or moved, and the particular state highways for which permit to operate is requested and whether such permit is required for single trip or for continuous operation. All fees collected under this act shall be forwarded to the state treasurer for deposit in the state highway general fund.

Discretionary authority.

"(a) **Special permits — Discretion of issuer — Conditions.** The state highway commission or local authority

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is authorized to issue or withhold such special permit at its discretion, or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicle described may be operated on the public highways indicated, or otherwise to limit or prescribe conditions of operation of such vehicle or vehicles when necessary to assure against damage to the road foundation, surfaces or structures or safety of traffic and may require such undertaking or other security as may be deemed necessary to compensate for injury to any roadway or road structure.

"(b) **Special permits — Fees.** The following fees, in addition to the regular license and gross vehicle weight fees, shall be paid for all movements under special permits on the public highways under the jurisdiction of the state highway commission: Fees.

"Three dollars ($3.00) for each permit issued in excess of the size and weight specified in this act; provided, however, that term or blanket permits shall not be issued for overwidth loads in excess of fifteen (15) feet, overlength loads in excess of seventy (70) feet, and overheight loads in excess of a limit determined by the *state* highway commission. Loads in excess of these dimensions will be limited to trip permits.

"In addition to the three dollar ($3.00) fee specified herein for overweight permits, there shall be charged for single trip permits: five dollars ($5.00) for distances to and including one hundred (100) miles; fifteen dollars ($15.00) for distances from one hundred one (101) to one hundred ninety-nine (199) miles; and twenty-five dollars ($25.00) for distances over two hundred (200) miles traveled, for such excess load over the gross allowable load specified in this section or the sum of the excess axle loads, whichever is greater.

"(c) **Special permits — Misrepresentations and Violations — Penalty — Display of permit.** Any person who knowingly and wilfully misrepresents the size or weight of any load in obtaining a special permit or does not follow the requirements and conditions of the special permit or who operates any vehicle, the gross weight of which is in excess of the maximum for which such vehicle may be eligible for license, without first obtaining a special permit, is guilty of a misdemeanor. Penalty.

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Display of special permit.

"Every special permit issued hereunder shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any peace officer, officer of the Montana highway patrol, or employees of the *state* highway commission.

Confiscation for violation.

"A peace officer, officer of the Montana highway patrol, or employees of the *state* highway commission who shall find any person operating a vehicle in violation of the conditions of a special permit issued hereunder may confiscate such permit and forward the same to the state highway commission which may return it to the permittee or revoke, cancel, or suspend it without refund. The state highway commission shall keep a record of all action taken upon permits so confiscated and if a permit shall be returned to the permittee, the action taken by the commission shall be endorsed thereon. Any permittee whose permit is suspended or revoked may, upon request, receive a hearing before the commission or person designated by the commission. The commission, after such hearing, may reinstate any permit or revise its previous action."

Repealing clause.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1961.

CHAPTER 244

An Act to Amend Sections 66-801, 66-802, 66-803, 66-804 and 66-806, Revised Codes of Montana, 1947, as Amended, All Relating to Regulation of Cosmetology; Requiring One (1) Year of Practice or Teaching Before Obtaining a Manager-Operator License; Exempting From the Definition of Cosmetology, Artists Who Demonstrate for the Benefit and Instruction of Cosmeticians; Providing That the Applicants Shall Have Studied at Registered Beauty Schools, Instead of Accredited Schools; Providing That Northern Montana College Graduates in Cosmetology Are Qualified to Take the Licensing Examination; Deleting Provision for Apprenticeship Licenses; Requiring a Bond From School Operators; Forbidding Shops and Schools to be Operated Together; Providing for Change in the Name of the

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State Board and for Additional Requirements for Members of the State Board; Providing Additional Requirements Relative to the Establishment of Minimum Prices; Forbidding the Advertisement or Sale of a Service Below the Minimum Price.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-801, Revised Codes of Montana, 1947, as amended by section 1, chapter 20, laws of 1955, be amended to read as follows:

License required to practice or teach cosmetology.

"66-801. (3228.1) **License required to practice or teach cosmetology or operate a beauty shop, cosmetological establishment or school, and provisions for registration of schools of cosmetology.** No person shall practice or teach cosmetology without a license and no place shall be used or maintained for the teaching of cosmetology for compensation, except under a certificate of registration, and no person shall operate, manage or conduct a beauty shop or school and teach the art therein, or practice therein, without a manager-operator license. *No manager-operator license shall be issued after December 31, 1961, unless the applicant therefor shall have been actively engaged in or teaching the practice of cosmetology in this state for a period of one (1) year preceding such application in addition to possessing the other requirements provided for a practitioner or teacher of cosmetology.* Any person, firm, copartnership or corporation desiring to operate a cosmetological establishment shall make an application to the board for certificate of registration and license. The application shall be accompanied by the annual registration fee."

Manager—operator license.

Amending clause.

Section 2. Section 66-802, Revised Codes of Montana, 1947, as amended, is hereby amended to read as follows:

Practice and teaching defined.

"66-802. (3228.2) **Definitions.** The practice and teaching of cosmetology is defined to be and includes any or all work generally and usually included in the term 'hairdressing' and 'beauty culture' and performed in so-called hairdressing and beauty shops, or by itinerant cosmetologists, which work is done for the embellishment, cleanliness and beautification of the hair, scalp, face, arms or hands. Provided, however, that itinerant cosmetologists shall not be construed to include itinerant cosmetologists who perform their services without compensation for

Exempt persons.

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demonstration purposes, in any regularly established store or place of business, holding a license from the State of Montana as such store or place of business. *Nor shall it be construed to include cosmetological artists who demonstrate cosmetological skills under the auspices of the state association of cosmetology or its affiliated units, whether at meetings or in licensed cosmetological etablishments.*

"A cosmetological establishment is any premises, building or part of building whereon or wherein is practiced any branch or combination of branches of cosmetology, or the occupation of a hairdresser and cosmetician or cosmetologist.

"A cosmetological establishment shall at all times be in charge of a manager-operator."

Amending clause.

Section 3. That section 66-803, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Requirements for practicing or teaching cosmetology or operating school.

"66-803. (3228.3) **Requirements for practicing or teaching cosmetology or operating a school of cosmetology.** Before anyone may practice or teach cosmetology, or any person, firm, or co-partnership, or corporation may operate a school of cosmetology, such person, firm, or co-partnership or corporation must obtain a license or certificate of registration from the state board as hereinafter provided. To be eligible to take the examination to practice cosmetology the applicant must not be less than eighteen (18) years of age *and a graduate of the eighth grade school and must be* of good moral character. Such applicant must have completed a continuous course of study of at least two thousand (2,000) hours in *a registered* beauty school, which course of study has been distributed over a period of not less than ten (10) months or more than twelve (12) months, and has received a diploma from said beauty school, *or must have completed the course of study in cosmetology prescribed by the state board of education, ex-officio regents of the university of Montana, for Northern Montana College.* Such person so qualified must file with the secretary of the state board, a written application to take such examination accompanied by a health certificate issued by a registered, licensed physician on a form supplied by the state board, and shall deposit with the secretary of the said board, the required

Examination and fee.

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examination fee and pass an examination as to his or her fitness to practice cosmetology. Before an applicant may take an examination to obtain a license as a teacher of cosmetology, he or she must have a diploma from *a registered* beauty school, and must also have a license to practice cosmetology, and must show that he or she has been actively engaged as a beauty operator for three (3) continuous years prior to taking said teachers' examination. Said applicant must qualify by filing an application as prescribed by the board and by taking and passing such examination as prescribed and given by the state board before a license shall issue. Such license must be renewed annually as herein provided.

Temporary license.

"Provided, further, the board may grant to graduates of *registered* schools of this state upon the payment of a fee of two dollars ($2.00) a temporary license authorizing such graduates to practice as an operator under the supervision of a licensed cosmetologist, in the practice of hairdressing and beauty culture, for a period of not to exceed ninety (90) days, or until the next examination is held by the board. No such temporary license shall be issued except upon the presentation by the applicant of a certificate of graduation from a registered school of the State of Montana, and such temporary licenses shall not be renewable.

Certificate of registration required to operate school.

"No person, firm or co-partnership, or corporation shall operate a school for the purpose of teaching cosmetology for compensation unless a certificate of registration has been first obtained from the state board. Application for such certificate shall be filed with such board on such form as the board shall prescribe.

Eligibility requirements.

"No school for teaching cosmetology shall be granted a certificate of registration unless it complies, or can comply, with the following requirements:

"(1) Have in its employ a licensed teacher who shall be, at all times, in the immediate supervision of the work of said school, or such other teachers as the state board may determine is necessary for the proper conduct of said school. Provided, however, that there shall not be more than twenty-five (25) students to each such teacher.

"(2) It shall possess such apparatus and equipment

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as the state board may determine is necessary for the ready and full teaching of all subjects or practices of cosmetology.

"(3) It shall maintain a school term of not less than two thousand (2,000) hours extending over a period of ten (10) consecutive months, and shall prescribe a course of practical training and technical instructions equal to the requirements for state board examinations, which course of training and technical instruction shall be prescribed by the state board.

"(4) It shall keep a daily record of the attendance of each student, establish grades, and hold examinations before issuing diplomas.

"(5) No owner, or person in charge of a school of cosmetology shall permit any person to sleep in or use for residential purposes, or any other purpose which would tend to make the room unsanitary, any room used, wholly or in part for a school of cosmetology.

"(6) Certificates of registration may be refused, revoked, or suspended, as provided in section 66-811.

"(7) The state board shall have the power to prescribe such further rules and regulations as they deem necessary for the proper conduct of schools of cosmetology.

"(8) The state board shall require of the person, firm, co-partnership, or corporation operating a school to furnish a good and sufficient bond in the amount of $5,000 and in a form and manner to be prescribed by the board.

"(9) No professional beauty shop shall be operated in connection with any school of cosmetology.

"If a licensee shall contract a communicable disease, endangering the public health, the board shall, upon proof of same, cancel or suspend his or her license until such time as said licensee can secure a physician's certificate showing that such licensee is free from a communicable disease."

Amending clause.

Section 4. That section 66-804, Revised Codes of Montana, 1947, be, and same is hereby amended to read as follows:

Creation—state examining board of cosmetology.

"66-804. (3228.4) **Creation of state examining board of** *cosmetology* **— Term — Appointment — Qualifications.**

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There is hereby created a state examining board which shall be called and styled 'the Montana state examining board of *cosmetology,*' consisting of three members, each of whom shall be a cosmetologist, to be appointed by the governor, from a list of six persons recommended by the Montana state hairdressers' association. Each member hereinafter appointed shall serve four (4) years and until his or her successor is appointed. The members hereinafter appointed on said board must have been actively engaged in the profession of cosmetology for at least five (5) years prior to such appointment, and must have been a resident of the State of Montana for at least five (5) years *immediately* prior to such appointment. *The board members shall be at least twenty-five (25) years old and graduates of a high school or its equivalent.* No two members of the said board shall be members of or affiliated with any school of cosmetology. The board hereby created shall be referred to hereinafter as the 'state board.' Said board shall adopt a seal to authenticate its acts.''

Appointment.

Term of office.

Qualifications.

Section 5. That section 66-806, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

''66-806. (3228.6) **Power of board to promulgate rules and regulations and to approve price agreements.** (1) The Montana state examining board of beauty culturists shall have power to approve price agreements among licensed practitioners and students in beauty schools, under this act, whereby minimum prices for hairdressing and beauty culture are established by explicit written agreement signed and executed by at least seventy-five (75) per cent of the practitioners in any county within the State of Montana, and submitted to the board by such signing group over the signatures of all thereof; providing also that beauty schools shall charge for students' work, not less than fifty (50) per cent of the established minimum prices, as determined and approved by seventy-five (75) per cent of the practitioners in that particular area. Upon receipt of such price agreements, so executed, the board shall proceed to investigate the reasons therefor and the necessity of justification for such agreement, and in the event that the board, in its discretion, concludes that such price agreement is just and under the conditions obtaining for the particular territory involved, will

Powers of board.

Price fixing.

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best protect the public health and safety by affording a sufficient minimum price for hairdressing and beauty culture to enable the practitioners to furnish modern and healthful services, and appliances to minimize danger to the public health, the board may approve such agreements for the term proposed therefor or for such shorter term as the board may deem proper.

Price changing.

"(2) The board shall also have power to consider separately, the petition of an incorporated town or city, when accompanied by the signatures of at least two-thirds (⅔) of the licensed practitioners in such town or city and the board may approve, if deemed necessary, according to the purpose of this act, any changes in existing price agreements or establish new agreements, when approved by seventy-five (75) per cent of the licensed practitioners within such town or city. All other communities and territory adjacent to any town or city and all other areas in the county shall abide by the rules and agreements heretofore prescribed for that particular county.

"For the purposes above, a city or town shall be deemed to include, in addition to the territory lying within its legal boundaries, the territory adjacent to it and lying within three miles of said legal boundaries, in any direction.

Investigation and determination.

"(3) In determining whether any such price agreement is necessary and just, and will protect the public health and safety, the board shall give consideration to all conditions affecting hairdressing and the beauty culture art, as practiced, in its relation to public health and safety, and also to the necessary costs incurred in the particular territorial area in maintaining shops or parlors in sanitary and attractive condition. *The board shall, on its own initiative, investigate or cause to be investigated conditions existing in the practice of cosmetology throughout the state, and shall establish new or modify existing minimum prices wherever and whenever it shall appear in the discretion of the board that such action shall be in the best interests of public health and safety and in keeping with the purposes and objectives of this act. In no event shall any minimum price agreement or standard be established, approved, modified or abolished, except after public hearing thereon, notice of said hearing and the pur-*

Public hearing.

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pose, time and place thereof to be mailed by the board to every licensed practitioner in the area affected thereby as the same shall appear from the records of the board and shall be published at least once in a newspaper of general circulation which the board shall deem most likely to give notice to the public, such mailing and publication to be done not less than ten (10) days prior to the hearing.

Effect—order of board.

"(4) The price agreement as proposed, or as modified by the board, shall be put into effect by official order of the board, which shall plainly state the minimum price for all work usually performed in a beauty shop or parlor within the county, city or town in which the price agreement has been signed, and for which it is effective, *and thereafter no person subject to this act shall advertise or sell any service for less than the minimum price thereof within the area for which said price was established.* If the board, at the time of the receipt of the proposal, or at any time thereafter, including any time subsequent to its order, either upon petition of two-thirds (⅔) of the signatories to said price agreement, or upon the board's initial motion finds that the minimum prices so fixed by its order are insufficient or improperly adjusted, to provide healthful services to the public and keep the shops and parlors in a safe, sanitary and attractive condition, then the board shall have authority to modify said minimum prices by prescribing such increases, adjustments or decreases, if necessary, best calculated to realize said objectives.

Board shall regulate.

"(5) The state board shall prescribe reasonable rules for the conduct of its business and for the qualification, examination and registration of applicants to practice or teach cosmetology, and for applicants for manager-operator licenses, and for the regulation and instruction of apprentices and students, and for the conduct of schools of cosmetology for apprentices and students, and generally for the conduct of the persons, firms or corporations affected by this act, within the limits of the act."

Approved March 15, 1961.

CHAPTER 245

An Act to Provide for a Fund for the Support of the School Districts and County High Schools of the State,

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to be Designated the Public School Classroom Unit Assistance Fund; Providing for the Distribution of Moneys Appropriated to Said Fund on the Basis of Classroom Units, and Defining the Same; Providing the Manner of Distribution and the Use of Such Funds; and Providing That the Act Shall be in Force and Effect During the Period From July 1, 1961, to June 30, 1963, Inclusive.

Be it enacted by the Legislative Assembly of the State of Montana:

Public school classroom unit assistance fund established.

Section 1. There is hereby established the public school classroom unit assistance fund, to be administered by the state board of education for the benefit of all school districts and county high schools operating public elementary and high schools accredited by the state board of education.

Treasurer shall keep separate.

Section 2. The treasurer of the State of Montana shall ever keep separate and apart from all other funds and moneys in his custody, the moneys in the said fund, and there shall be paid into such fund all moneys which shall be appropriated thereto by the legislative assembly.

Number of classroom units determined annually.

Section 3. The state superintendent of public instruction, on the first day of October of each year, shall determine the number of classroom units in each school district and county high school of the state. Such determination shall be made on the basis of one classroom unit for each regular classroom teacher, excluding full time superintendent, principals and guidance personnel.

Disbursements of fund.

Section 4. In the month of December of each year, the state board of education shall order disbursements from said fund on the basis of such determination, in equal amounts per classroom unit. Each order of the state board of education for disbursements of funds hereunder shall be certified to the state auditor and state treasurer, whereupon, the state auditor shall draw his warrants in accordance with such order, and the state treasurer shall pay the same to the several county treasurers for credit to the school districts and county high schools, as provided in such order.

Use of fund.

Section 5. School districts and county high schools may use such funds to reduce any levy necessary for the general fund except the 5 mill levy provided for in section

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75-1723, Revised Codes of Montana, 1947, as amended, or may budget for and use such funds above the permissive area provided by law, without the requirement of an election as provided for in section 75-3801, Revised Codes of Montana, 1947. Such funds shall not be construed to be included within "all other regular sources of revenue required to be used to finance the foundation program as provided in sections 75-1723 and 75-4516.1," under the provisions of section 75-3616, Revised Codes of Montana, 1947, as amended.

Eligibility.

Section 6. No school district or county high school not entitled to state public school equalization funds for its foundation program shall be entitled to the distribution of any funds under this act.

Effective when.

Section 7. This act shall be in force and effect for the period from July 1, 1961, to June 30, 1963, inclusive.

Approved March 15, 1961.

CHAPTER 246

An Act to Amend Section 75-4516.1, of Replacement Volume 4, Revised Codes of Montana, 1947, as Amended by Section 4, Chapter 208, Session Laws of Montana, 1951, and as Further Amended by Section 1, Chapter 202, Session Laws of Montana, 1953, Relating to Levy of Taxes for High School District Budgets and Removing Restrictions on the Budgeting Power of School Trustees When Federal Funds Are Applied to Financing the Permissive Area Above the Foundation Program, Providing for An Effective Date and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That chapter 202, section 75-4516.1, laws of Montana, 1953, be, and the same is hereby amended to read as follows:

Duty of county commissioners to levy annual special tax for high schools.

"75-4516.1. **Levy of taxes.** It shall be the duty of the county commissioners of each county in the state to levy an annual special tax for high schools of ten (10) mills on the dollar of the taxable value of all taxable property within the county, which levy shall be made at the

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time and in the manner provided by law for the levying of taxes for county purposes and which tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected; provided that if a levy of less than ten (10) mills should be sufficient to meet the total of the approved budgets of all school districts within the county, then such lesser levy shall be made, but no high school within a county levying less than ten (10) mills for high school purposes shall receive any apportionment from the state public school equalization fund.

Duty to fix and levy additional tax—when.

"If the revenues for the operation and maintenance of any high school, including the amount apportionable from said ten (10) mill special tax for high schools, shall be less than the foundation program of such high school and the approved additions thereto included in its budget within the limitations hereinbefore specified, it shall be the further duty of the board of county commissioners to fix and levy a tax, in such number of mills as will produce the amount shown by the final budget to be raised by tax levy plus federal reimbursements in lieu of taxes, which tax shall, in the case of a county high school not located within a building district, be levied upon all property in the county, excepting the property of any district supporting a district high school, and shall, in the case of a county high school located within a high school building district, be levied upon all property in such building district and which tax shall, in the case of a district high school not located within a building district, be levied upon all property within the school district, and shall, in the case of a district high school located within a building district, be levied upon all property in such building district, provided, however, that such last mentioned additional tax shall not, in any event, exceed ten (10) mills unless the excess above said ten-mill limitation shall first have been authorized at an election held in accordance with the general school laws pertaining to the voting of additional levies, save and except that in any district wherein more than ten (10) mills is required to reach the permissive percentage limits, as set out in section 75-4518.1, above the foundation program, such increase above the ten (10) mill limit may be financed by federal reimbursements in lieu of taxes without a vote of the taxpayers up to the

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above mentioned percentage limits above the foundation program.

"Section 2. *Federal funds received by a school district under the provisions of public law 874, or funds designated in lieu thereof by the congress of the United States, may be allocated to the various operating budgets of the school district by the board of trustees of the school district.*" Federal funds—allocation.

Section 3. This act shall be in full force and effect on July 1, 1961. Effective July 1, 1961.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 15, 1961.

CHAPTER 247

An Act to Amend Section 75-1723, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 247, Session Laws of Montana, 1953, Relating to Fixing of Tax Levy for Elementary School District Budgets, and Removing Restrictions on the Budgeting Power of School Trustees When Federal Funds Are Applied to Financing the Permissive Thirty Percent (30%) Limit Area Above the Foundation Program, Providing for An Effective Date, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That chapter 247, section 75-1723, laws of Montana, 1953, be, and the same is hereby amended to read as follows: Amending clause.

"75-1723. **Fixing tax levy.** The county superintendent of schools, as clerk of the school budget board, shall, when the board of county commissioners meet on the second Monday in August for the purpose of fixing tax levies, lay before such board the elementary school budgets for all school districts in the county, as finally adopted and approved by the school budget board, and it shall be the duty of the county commissioners of each county in the state to fix and levy a tax of five (5) mills on the dollar of the taxable value of all school districts within Duty of county commissioners to fix and levy annual tax for elementary schools.

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the county, provided that if a levy of less than five (5) mills will be sufficient to meet the approved budget of any school district, then such lesser levy shall be made, but no school district levying less than five (5) mills shall receive any apportionment from the state public school equalization fund.

Duty to fix and levy additional tax—when.

"It shall further be the duty of the county commissioners of each county in the state to fix and levy a tax for each school district in the county within the limitations prescribed by this act in such number of mills as will produce the amount shown by the final budget to be raised by tax levy which may also include a reserve fund, not to exceed thirty-five per cent (35%) of the amount appropriated in the final and approved budget for the then current school year, for the purpose of maintaining the elementary and high school of the district from July 1 to November 30 of the next succeeding year; provided that such school district tax plus federal reimbursements in lieu of taxes shall not, unless approved by a vote of the taxpaying electors, exceed the rate of levy required to produce an amount equal to the foundation program and the additions thereto, within the limitations of thirty per cent (30%), hereinbefore specified, and provided, further, that such last mentioned additional school district tax shall not, in any event, exceed fifteen (15) mills unless the excess above said *fifteen (15)* mill limitation shall first have been authorized at an election held in accordance with the general school laws pertaining to the voting of additional levies, save and except that in any district wherein more than fifteen (15) mills is required to reach the thirty per cent (30%) limit above the foundation program, such increase above the fifteen (15) mill limit may be financed by federal reimbursements in lieu of taxes without a vote of the taxpayers up to the thirty per cent (30%) limit above the foundation program.

Federal funds—allocation.

"Section 2. *Federal funds received by a school district under the provisions of public law 874, or funds designated in lieu thereof by the congress of the United States, may be allocated to the various operating budgets of the school district by the board of trustees of the school district.*"

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 4. This act shall be in full force and effect on July 1, 1961. Effective July 1, 1961.

Approved March 15, 1961.

CHAPTER 248

An Act Relating to the Manner of Determining Inheritance Taxes on the Transfer by Deed Between Husband to Wife and Wife to Husband Conveying Real Property Within Three (3) Years of Date of Death or at or After Death; Establishing a Procedure Therefor; Imposing Certain Duties on County Clerk and Recorders, County Assessors and the State Board of Equalization; Providing That the Provisions of This Act be Governed by Section 91-4416, Revised Codes of Montana, 1947; and Establishing a Valuation Limitation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Wherever any deed conveying real property from husband to wife, or wife to husband, is filed with the county clerk and recorder within three (3) years prior to the date of the death of the grantor, or, at or after the date of death of the grantor, it shall be the duty of the county clerk and recorder to furnish the county assessor with a description of the property so conveyed and the names of the grantor and the grantee. Duty of county clerk when conveyance between spouses is filed within three years of death of grantor.

Section 2. It shall be the duty of the county assessor to appraise said property and to certify to the state board of equalization the appraised value of the property so conveyed on a form to be provided by the state board of equalization for this purpose. Duty of assessor.

Section 3. The county clerk and recorder, at the time of the filing of said deed, if the deed is filed at or after death, or when informed by the grantee or someone acting on behalf of the grantee of the death of a grantor within the three (3) year period above mentioned, shall furnish the grantee, or one acting on behalf of the grantee, a form to be prepared by the state board of equalization, which form shall show the degree of relationship between the grantor and the grantee and such other essential information as the state board of equalization may need in order Clerk to furnish form for determination of inheritance tax.

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to determine what, if any, inheritance tax may be due to the State of Montana by reason of the transfer of the property so conveyed. Said form shall also contain an affidavit of the grantee setting forth that the grantor died without having any other property necessitating the procuring of letters of administration, or letters testamentary, or special letters for the purpose of terminating joint tenancy and that to the knowledge of the grantee the property was not by will otherwise bequeathed. It shall also contain the name and address of any other heirs of the grantor.

Board shall issue certificate.

Section 4. Upon receipt of the report of the county assessor, and the form and affidavit of the grantee, the state board of equalization shall issue to the grantee a certificate stating the amount of inheritance tax determined to be due to the State of Montana by reason of said transfer, or if no tax is due, such certificate shall so state.

Grantee shall pay tax.

Section 5. If a tax is determined due by reason of said transfer the grantee shall pay the tax to the county treasurer, who shall make triplicate receipts of such payment, one of which he shall immediately send to the state treasurer, whose duty it shall be to charge the county treasurer so receiving the tax with the amount thereof. One receipt the county treasurer shall keep on file in his office. The other receipt shall be delivered to the grantee, or one acting in his behalf, which, when filed with the county clerk and recorder together with the certificate of the state board of equalization, shall be prima facie proof of the payment of any inheritance tax due by reason of said transfer. If the certificate shall determine no tax due by reason of said transfer, the filing of said certificate with the county clerk and recorder shall operate to the same effect. Payment of inheritance tax under this act shall be governed by the provisions of section 91-4416, Revised Codes of Montana, 1947.

Receipt as proof of payment.

Effect—subsequent probate.

Section 6. If property is discovered after the issuance of such a certificate or the tax has been paid, and for which letters of administration or letters testamentary are issued, or are to be issued, the value of the real property so conveyed and for which a certificate shall have been issued pursuant to this act, shall be included in the gross estate of the deceased and, if a tax has theretofore been

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found due on the transfer and has been paid, credit shall be given for the amount so paid by the grantee toward any additional tax that may be found due and owing by reason of the value of the after discovered property.

Board may make separate appraisal.

Section 7. Should the state board of equalization believe, or have reason to believe, the appraised value of the property as furnished by the county assessor is disproportionate to the actual value of the property, nothing contained herein shall be construed to prevent the state board of equalization from making or causing to be made, a separate appraisement of said property so conveyed.

Purpose—to simplify procedure for removal of inheritance tax lien.

Section 8. The purpose of this act is to provide a simplified procedure of removing the inheritance tax lien which attaches upon the death of a grantor where the transfer is from husband to wife, or wife to husband, and where the total value of the real property so transferred does not exceed the value of twenty thousand dollars ($20,000.00), at the time of death; provided, however, this act shall not apply to other transfers of property under the inheritance tax act which require determination of the inheritance tax by the court to remove the lien of the inheritance tax.

Approved March 15, 1961.

CHAPTER 249

An Act to Amend Section 31-135, Revised Codes of Montana, 1947, Relating to Issuance of Driver's Licenses; to Provide That Driver's Licenses Shall Contain a Photograph of the Operator or Chauffeur in Such Form and Size as the Montana Highway Patrol Board Shall Prescribe; to Provide for An Increase in the License Fee From Three Dollars ($3.00) to Four Dollars ($4.00); Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 31-135, Revised Codes of Montana, 1947, is amended to read as follows:

Authority to appoint agents for sale of driver's licenses—fee for license.

"31-135. **Licenses issued to operators and chauffeurs.** (a) The highway patrol board shall have authority to appoint county treasurers and other qualified officers to

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act as its agent or agents for the sale of driver's licenses, and shall make necessary rules and regulations governing such sales. The board shall, upon payment of *four dollars ($4.00);* issue to every applicant qualifying therefor, an operator's or chauffeur's license as applied for, which license shall be purchased biennially on or before the operator's or chauffeur's birthday, and shall expire on the anniversary of the date of birth of the operator or chauffeur, two (2) years or less after the date of issue, and shall *contain a photograph of such licensee in such size and form as may be prescribed by the highway patrol board,* a distinguishing number issued to the licensee, the full name, date of birth, residence address, and a brief description of the licensee and either a facsimile of the signature of the licensee or a space upon which he shall write his signature in pen and ink, immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee.

License shall contain photograph of licensee.

Duration and renewal.

"(b) Every operator's or chauffeur's license issued hereunder shall be valid for a term of two (2) years, except as otherwise provided, and shall be renewed for a like period on or before the second anniversary of the licensee's date of birth next succeeding date of issue for a further period of two (2) years from such anniversary, upon receipt of the application and fee as in the case of original application as provided herein. Notwithstanding the foregoing provisions the highway patrol board shall change the expiration dates to a system of staggered expiration dates based on the anniversary date of birth of the applicant and shall collect additional fees as hereinafter provided.

"Provisional license."

"(c) Whenever the board issues an original license to a person under the age of twenty-one (21) years, such license shall be designated and clearly marked as a 'provisional license.' Any license so designated and marked may be suspended by the board for a period of not more than twelve (12) months, when its record discloses that the licensee, subsequent to the issuance of such license, has been guilty of careless or negligent driving. Upon renewal as applicable to operator's licenses, the board may for any reasonable cause, as shown by its records, designate the renewal of the license as provisional, otherwise, a license in usual form shall be issued subject to other provisions of the laws of Montana.

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"(d) It shall be unlawful for any person to have in his possession or under his control, more than one (1) Montana operator's or chauffeur's license at any one time."

Unlawful to possess more than one license.

Section 2. Repealing all acts and parts of acts in conflict herewith.

Repealing clause.

Approved March 16, 1961.

CHAPTER 250

An Act to Increase by Three Per Cent (3%), for the Two-Year Period Beginning July 1, 1961 and Ending June 30, 1963, the Foundation Program Schedules Provided in Section 75-3612, Revised Codes of Montana, 1947, as Amended by Chapter 267, Laws of 1959.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the two-year period beginning July 1, 1961 and ending June 30, 1963, the foundation program schedules provided in section 75-3612, Revised Codes of Montana, 1947, as amended by chapter 267, laws of 1959, shall be increased by the amount of three per cent (3%).

3% increase—foundation program schedules.

Section 2. The foundation program schedules so increased shall be the basis for general fund school budgets adopted by the trustees of all school districts and county high schools in June, 1961, and June, 1962, which budgets shall be applicable to the fiscal years 1961-62 and 1962-63 respectively.

Basis for general fund school budgets.

Approved March 15, 1961.

CHAPTER 251

An Act Relating to Securities and Creating the Office of Investment Commissioner; Providing for the Administration of the Act and Prescribing Certain Powers and Duties in Connection Therewith; Providing for the Registration of Securities; Providing for the Registration of Broker-Dealers, Salesmen, and Investment Advisors; Exempting Certain Securities and Security Transactions

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From the Provisions of the Act; Providing for Consent to Service of Process; Providing for Registration Fees Under the Act; Providing for Investigations; Providing for Judicial Review of Orders; Defining Terms; Providing Penalties; Providing Effective Date of Act; Repealing Section 66-2001; Section 66-2002, as Amended by Section 1, Chapter 178, Laws of Montana, 1957; Section 66-2003, as Amended by Section 2, Chapter 178, Laws of Montana, 1957, Sections 66-2004 Through 66-2006; Section 66-2007, as Amended by Section 3, Chapter 178, Laws of Montana, 1957; Sections 66-2008 Through 66-2017; Section 66-2018, as Amended by Section 4, Chapter 178, Laws of Montana, 1957; Sections 66-2019 Through 66-2022; Section 66-2023, as Amended by Section 5, Chapter 178, Laws of Montana, 1957; Section 66-2024, as Amended by Section 6, Chapter 178, Laws of Montana, 1957; Sections 66-2025 and 66-2026, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Office of investment commissioner created.

Section 1. **Office of investment commissioner.** The office of the investment commissioner is hereby created, and the state auditor of Montana is hereby made and constituted ex officio investment commissioner.

Title of act.

Section 2. **Short title.** This act may be cited as the "securities act of Montana."

Purpose.

Section 3. **Statutory policy.** This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Definitions.

Section 4. **Definitions.** When used in this act, unless the context otherwise requires:

"Commissioner."

(1) "Commissioner" means investment commissioner of this state.

"Salesman."

(2) "Salesman" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities, but "salesman" does not include an individual who represents an issuer in (a) effecting a transaction in a security exempted by subsections 13 (1), (2), (3), (9), (10), or (11), of this title, (b) effecting transactions exempted by section 14, or (c) effecting transactions with existing em-

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ployees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer, or director of a broker-dealer or issuer is a "salesman" only if he otherwise comes within this definition.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include (a) a salesman, issuer, bank, savings institution, trust company or insurance company, (b) a person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustee, or (c) a person who has no place of business in this state if during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in clause (b). "Broker-dealer."

(4) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends. "Guaranteed."

(5) "Investment adviser" means any person who, for compensation, engages in the business of advising others either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include (a) a bank, savings institution, trust company or insurance company; (b) a lawyer, accountant, engineer, or teacher whose performance of these services if solely incidental to the practice of his profession; (c) a broker-dealer; (d) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation; (e) a person whose advice, analyses, or reports relate only to securities exempted by subsection 13 (1) of this title; (f) a person who has no place of business in "Investment adviser."

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this state if (i) his only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trust, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during any period of twelve (12) consecutive months he does not direct business communications into this state in any manner to more than five (5) resident clients other than those specified in clause (i); or (g) such other persons not within the intent of this paragraph as the commissioner may by rule or order designate.

"Issuer." (6) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

"Non-issuer." (7) "Non-issuer" means not directly or indirectly for the benefit of the issuer.

"Person." (8) "Person," for the purpose of this act, means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

"Sale" or "sell." (9) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

"Offer" or "offer to sell."

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the pur-

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chase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

Federal statutes defined.

(10) "Securities act of 1933," "securities exchange act of 1934," "public utility holding company act of 1935," and "investment company act of 1940" mean the federal statutes of those names as amended before or after the effective date of this act.

"Security."

(11) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; pre-organization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a sum of money, either in a lump sum, or periodically for life, or some other specified period.

"State."

(12) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

Fraudulent and other prohibited practices enumerated.

Section 5. **Fraudulent and other prohibited practices.** (1) It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly

(a) to employ any device, scheme, or artifice to defraud,

(b) to make any untrue statement of a material fact

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Fraudulent and other prohibited practices enumerated—(cont'd.)

or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or

(c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(2) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analysis or reports or otherwise,

(a) to employ any device, scheme, or artifice to defraud the other person, or

(b) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

(3) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides:

(a) that the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(b) that no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(c) that the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change. Clause (a) does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. "Assignment," as used in clause (b), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to re-

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sult from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

Fraudulent and other prohibited practices enumerated—(cont'd.)

Section 6. **Registration of broker-dealers, salesmen, and investment advisers.**

(1) It is unlawful for any person to transact business in this state as a broker-dealer or salesman, except in transactions exempt under section 14, unless he is registered under this act. It is unlawful for any person to transact business in this state as an investment adviser unless (1) he is so registered under this act, or (2) he is registered as a broker-dealer under this act, or (3) his only clients in this state are investment companies as defined in the investment company act of 1940 or insurance companies.

Registration of broker-dealer or salesman required.

(2) A broker-dealer, salesman, acting as agents for an issuer or issuers or acting as agents for a broker-dealer in the sale of securities for an issuer or issuers or investment adviser may apply for registration by filing with the commissioner an application in such form as the commissioner shall prescribe and payment of the fee prescribed in section 16. Except for persons in the employ of brokerage firms governed by the regulations of the securities and exchange commission, all salesmen must be legal residents of this state and must have actually resided in this state for a period of at least one (1) year next prior to the date of application for registration. Salesmen shall also file with the commissioner a bond of a surety company duly authorized to transact business in this state. Said bond to be in the sum of five thousand dollars ($5,000.00), payable to the State of Montana, and conditioned upon the faithful compliance with the provisions of this act, and shall provide that upon failure to so comply the salesman shall be liable to any and all persons who may suffer loss by reason thereof.

Qualifications.

(3) The application shall contain whatever information the commissioner requires.

Information.

(4) If no denial order is in effect and no proceeding is pending under subdivision (8) of this section, registra-

Registration effective when.

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tion becomes effective at noon of the thirtieth (30th) day after an application is filed. The commissioner may specify an earlier effective date and he may by order defer the effective date for an additional sixty (60) days; the effective day after the filing of any amendment shall be noon of the thirtieth (30th) day thereafter unless otherwise accelerated by the commissioner.

Termination.

(5) Registration of a broker-dealer, salesman or investment adviser shall be effective until the first (1st) day of March next following such registration and may be renewed as hereinafter provided. The registration of a salesman is not effective during any period when he is not associated with an issuer or a registered broker-dealer specified in his application. When a salesman begins or terminates a connection with an issuer or registered broker-dealer, the salesman and the issuer or broker-dealer shall promptly notify the commissioner.

Renewal.

(6) Registration of a broker-dealer, salesman or investment adviser may be renewed by filing with the commissioner prior to the expiration thereof an application containing such information as the commissioner may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, salesman or investment adviser filed with the commissioner by the applicant, payment of the prescribed fee and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety (90) days. A registered broker-dealer or investment adviser may file an application for registration of a successor, to become effective upon approval of the commissioner.

Records must be kept.

(7) Every registered broker-dealer and investment adviser shall make and keep such accounts and other records, except with respect to securities exempt under section 13 (1), as may be prescribed by the commissioner. All records so required shall be preserved for three (3) years unless the commissioner prescribes otherwise for particular types of records. All the records of a registered broker-dealer or investment adviser are subject at any time or from time to time to such reasonable periodic, special or other examinations, within or without this state, by representatives of the commissioner, as the commissioner

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deems necessary or appropriate in the public interest or for the protection of investors.

Commissioner may order denial, suspension or revocation of registration.

(8) The commissioner may by order deny, suspend, or revoke registration of any broker-dealer, salesman, or investment adviser if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director:

(a) has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(b) has wilfully violated or wilfully failed to comply with any provision of this act or a predecessor act or any rule or order under this act or a predecessor act;

(c) has been convicted of any misdemeanor involving a security or any aspect of the securities business, or any felony;

(d) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(e) is the subject of an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, salesman, or investment adviser;

(f) is the subject of an order entered within the past five (5) years by the securities administrator of any other state or by the federal securities and exchange commission denying or revoking registration as a broker-dealer or salesman, or the substantial equivalent of those terms as defined in this act, or is the subject of an order of the federal securities and exchange commission suspending or expelling him from a national securities exchange or national securities association registered under the securities exchange act of 1934, or is the subject of a United States post office fraud order; but (a) the commissioner may not institute a revocation or suspension proceeding under this clause more than one (1) year from the date

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of the order relied on, and (b) he may not enter any order under this clause on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

(g) has engaged in dishonest or unethical practices in the securities business;

(h) is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the commissioner may not enter an order against a broker-dealer or investment adviser under this clause without a finding of insolvency as to the broker-dealer or investment adviser; or

(i) has not complied with a condition imposed by the commissioner under subdivision (8) of this section, or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business; or

(j) has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this clause, and he shall vacate any such order when the deficiency has been corrected. The commissioner may by order summarily postpone or suspend registration pending final determination of any proceeding under this section.

Notice.

(9) Upon the entry of the order under subdivision (8) of this section, the commissioner shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesman, that it has been entered and of the reasons therefor and that if requested by the applicant or registrant within fifteen (15) days after the receipt of the commissioner's notification the matter will be promptly set down for hearing. If no hearing is requested within fifteen (15) days and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing, may affirm, modify or vacate the order.

Hearing may be requested.

Commissioner may order cancellation.

(10) If the commissioner finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, investment adviser or salesman, or is subject to an adjudication of

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mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the commissioner may by order cancel the registration or application.

Registration of securities required.

Section 7. **Registration of securities.** It is unlawful for any person to offer to sell any security in this state, except securities exempt under section 13 or when sold in transactions exempt under section 14, unless such security is registered by notification, coordination, or qualification under this act.

Registration by notification.

Section 8. **Registration by notification.** (1) The following securities may be registered by notification, whether or not they are also eligible for registration by coordination under this act:

(a) any security whose issuer and any predecessors have been in continuous operation for at least five (5) years if:

(1) there has been no default during the current fiscal year or within the three (3) preceding fiscal years in the payment of principal, interest, or dividends on any security of the issuer (or any predecessor) with a fixed maturity or a fixed interest or dividend provision; and

(2) the issuer and any predecessors during the past three (3) fiscal years have had average net earnings, determined in accordance with generally accepted accounting practices, which are applicable to all securities without a fixed maturity or a fixed interest or dividend provision and which (i) equal at least five percent (5%) of the amount of securities without a fixed maturity or a fixed interest or dividend provision outstanding at the date the registration statement is filed (as measured by the maximum offering price or the market price on a day selected by the registrant within thirty (30) days before the date of filing the registration statement, whichever is higher, or if there is neither a readily determinable market price nor an offering price, book value on a day selected by the registrant within ninety (90) days of the date of filing the registration statement), or (ii) if the issuer and any predecessors have not had any securities without a fixed maturity or a fixed interest or dividend provision outstanding for three (3) full fiscal years, equal at least five percent (5%) of the amount (as measured by

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the maximum public offering price) of such securities which will be outstanding if all the securities being offered or proposed to be offered (whether or not they are proposed to be registered or offered in this state) are issued;

(b) any security (other than a certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease) registered for non-issuer distribution of any security of the same class has ever been registered under this act or a predecessor act, or the security being registered was originally issued pursuant to an exemption under this act or a predecessor act.

Statement, documents and fee.

(2) A registration statement by notification shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in section 16:

(a) A statement demonstrating eligibility for registration by notification.

(b) With respect to the issuer: its name, address, and form of organization; the state (or foreign jurisdiction) and the date of its organization; and the general character and location of its business.

(c) A description of the securities being registered.

(d) Total amount of securities to be offered and amount of securities to be offered in this state.

(e) The price at which the securities are to be offered for sale to the public; any variation therefrom at which any portion of the offering is to be made to any persons, other than as underwriting and selling discounts or commissions; and the estimated maximum aggregate underwriting and selling discounts or commissions and finders' fees (including cash, securities, or anything else of value).

(f) Names and addresses of the managing underwriters and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter.

(g) Description of any security options outstanding or to be created in connection with the offering.

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(h) Any adverse order, judgment or decree previously entered in connection with the offering by any court or the United States securities and exchange commission.

(i) A copy of any offering circular or prospectus to be used in connection with the offering.

(j) In the case of any registration under section 8 (b) relating to non-issuer distribution which does not also satisfy the conditions of section 8 (1) (a), a balance sheet of the issuer as of a date within four (4) months prior to the filing of the registration statement, and a summary of earnings for each of the two (2) fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessors' existence if less than two (2) years.

(k) A consent to service of process meeting the requirements of section 15 of this act.

Registration statement by notification effective when.

(3) If no stop order is in effect and no proceeding is pending under sections 12 and 12 (3), a registration statement by notification automatically becomes effective at three (3) o'clock mountain standard time in the afternoon of the second (2nd) full business day after the filing of the registration statement or the last amendment, or at such earlier time as the commissioner determines.

Registration by coordination.

Section 9. **Registration by coordination.** (1) Any security for which a registration statement has been filed under the securities act of 1933, or any securities for which filings have been made pursuant to regulation A or regulation E, and amendments thereto, of the general rules and regulations of the United States securities and exchange commission, adopted pursuant to subsection (b) of section 3 of said securities art of 1933, in connection with the same offering may be registered by coordination. A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in section 16:

Statement, documents and fee.

(a) Three (3) copies of the prospectus or offering circular and letter of notification filed under the securities act of 1933 or the general rules and regulations thereunder, together with all amendments thereto.

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(b) The amount of securities to be offered in this state.

(c) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed.

(d) Any adverse order, judgment or decree previously entered in connection with the offering by any court or the securities and exchange commission.

(e) If the Commissioner by rule or otherwise requires, a copy of the articles of incorporation and by-laws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(f) If the commissioner requests, any other information, or copies of any other documents, filed under the securities act of 1933;

(g) An undertaking to forward promptly all amendments to the federal registration statement or offering circular and letter of notification, other than an amendment which merely delays the effective date; and

(h) A consent to service of process meeting the requirements of section 15 of this act.

Registration statement by coordination effective when.

(2) A registration statement by coordination under section 9 automatically becomes effective at the moment the federal registration statement or other filing becomes effective if all the following conditions are satisfied:

(a) No stop order is in effect and no proceeding is pending under sections 12 and 12 (3),

(b) The registration statement has been on file with the commissioner for at least ten (10) days, and

(c) A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two (2) full business days or such shorter period as the commissioner permits by rule or otherwise and the offering is made within those limitations. The registrant shall promptly notify the commissioner of the date and time when the federal registration statement or other filings

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became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

Commissioner may enter stop order.

(3) Upon failure to receive the required notification and post-effective amendment with respect to the price amendment referred to in subdivision (2) of this section, the commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with subdivision (2) of this section, if he promptly notifies the registrant of the issuance of the order. If the registrant proves compliance with the requirements as to notice and post-effective amendment, the stop order is void as of the time of its entry. The commissioner may by rule or otherwise waive either or both of the conditions specified in subdivisions (2) (b) and (2) (c) of this section. If the federal registration statement or other filing becomes effective before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all conditions are satisfied. If the registrant advises the commissioner of the date when the federal registration statement or other filing is expected to become effective the commissioner shall promptly advise the registrant whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under sections 12 and 12 (3); but this advice by the commissioner does not preclude the institution of such a proceeding at any time.

Registration by qualification— statement, documents and fee.

Section 10. **Registration by qualification.** (1) Any security may be registered by qualification. A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in section 16.

(a) With respect to the issuer and any significant subsidiary: its name, address, and form of organization; the state or foreign jurisdiction and date of its organization;

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Registration by qualification—statement, documents and fee—continued.

the general character and location of its business and a description of its physical properties and equipment.

(b) With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five (5) years; the amount of securities of the issuer held by him as of a specified date within ninety (90) days of the filing of the registration statement; the remuneration paid to all such persons in the aggregate during the past twelve (12) months, and estimated to be paid during the next twelve (12) months, directly or indirectly, by the issuer (together with all predecessors, parents and subsidiaries).

(c) With respect to any person not named in subdivision (b), owning of record, or beneficially if known, ten percent (10%) or more of the outstanding shares of any class of equity security of the issuer: the information specified in subdivision (b) other than his occupation.

(d) With respect to every promoter, not named in subdivision (b), if the issuer was organized within the past three (3) years: the information specified in subdivision (b), any amount paid to him by the issuer within that period or intended to be paid to him, and the consideration for any such payment.

(e) The capitalization and long-term debt (on both a current and a pro forma basis) of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, goodwill, or anything else) for which the issuer or any subsidiary has issued any of its securities within the past two (2) years or is obligated to issue any of its securities.

(f) The kind and amount of securities to be offered; the amount to be offered in this state; the proposed offering price and any variation therefrom at which any portion of the offering is to be made to any persons except as underwriting and selling discounts and commissions; the estimated aggregate underwriting and selling discounts, commissions and other promotional fees (includ-

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Registration by qualification—statement, documents and fee—continued.

ing separately cash, securities, or anything else of value to accrue to the underwriters in connection with the offering); the estimated amounts of other selling expenses, and legal, engineering, and accounting expenses to be incurred by the issuer in connection with the offering; the name and address of every underwriter and every recipient of a promotional fee; a copy of any underwriting or selling group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter.

(g) The estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the amounts of any funds to be raised from other sources to achieve the purposes stated, and the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property (including goodwill) otherwise than in the ordinary course of business, the names and addresses of the vendors and the purchase price.

(h) A description of any stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in subdivisions (b), (c), (d), (e), or (g) and by any person who holds or will hold ten percent (10%) or more in the aggregate of any such options.

(i) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed.

(j) Any adverse order, judgment, or decree previously entered in connection with the offering by any court or the securities and exchange commission; a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets (including any such litigation or proceeding known to be contemplated by governmental authorities).

(k) A copy of any prospectus or circular intended as

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of the effective date to be used in connection with the offering.

(l) A specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and by-laws, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered.

(m) A signed or conformed copy of an opinion of counsel, if available, as to the legality of the security being registered.

(n) A balance sheet of the issuer as of a date within four (4) months prior to the filing of the registration statement; a profit and loss statement and analysis of surplus for each of the three (3) fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessor's existence if less than three (3) years; and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if that business were the registrant.

(o) A consent to service of process meeting the requirements of section 15 of this act.

Exemption—information unknown

(2) In the case of a non-issuer distribution, information may not be required under section 10 unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made, or can be furnished by them without unreasonable effort or expense.

Registration statement by qualification effective when.

(3) A registration statement by qualification under section 10 becomes effective when the commissioner so orders. The commissioner may require as a condition of registration under this section that a prospectus containing any designated part of the information specified in section 10 be sent or given to each person to whom an offer is made before or concurrently with (1) the first (1st) written offer made to him (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer

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who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution, (2) the confirmation of any sale made by or for the account of any such person, (3) payment pursuant to any such sale, or (4) delivery of the security pursuant to any such sale, whichever first occurs; but the commissioner shall accept for use under any such requirement a current prospectus or offering circular regarding the same securities filed under the securities act of 1933 or regulations thereunder.

Section 11. **General provisions regarding registration of securities.**

Filing registration statement.

(1) A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer. Any document filed under this act or a predecessor act within five (5) years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate. The commissioner may by rule or otherwise permit the omission of any item of information or document from any registration statement.

Commissioner may require deposit in escrow.

(2) The commissioner may require as a condition of registration by qualification or coordination (1) that any security issued within the past three (3) years or to be issued to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be deposited in escrow; and (2) that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The commissioner may determine the conditions of any escrow or impounding required hereunder but he may not reject a depository solely because of location in another state.

Registration of securities effective until revocation or termination.

(3) When securities are registered by notification, coordination, or qualification, they may be offered and sold by the issuer, any other person on whose behalf they are registered or by any registered broker-dealer. Every registration shall remain effective until revoked by the commissioner or until terminated upon request of the registrant with the consent of the commissioner. All outstanding securities of the same class as a registered security

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are considered to be registered for the purpose of any non-issuer transaction. A registration statement which has become effective may not be withdrawn for one (1) year from its effective date if any securities of the same class are outstanding.

Commissioner may require progress reports.

(4) (a) The commissioner may require the person who filed the registration statement to file reports to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering with respect to registered securities which (a) are issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust as those terms are defined in the investment company act of 1940, or (b) are being offered and sold directly by or for the account of the issuer.

Financial statements required.

(b) During the period of public offering in the initial distribution of securities registered under the provisions of this act by notification or qualification, financial data or statements corresponding to those required under the provisions of sections 8 (2) and 10, and to the issuer's fiscal year, shall be filed with the commissioner annually, not less than ninety (90) days after the end of each such year. If such statements are not certified the commissioner may verify them by examining the issuer's books and records.

Section 12. **Denial, suspension and revocation of registration of securities.**

Commissioner may order denial, suspension or revocation of registration statement—when.

(1) The commissioner may issue an order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds that the order is in the public interest and that:

(a) the registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(b) any provision of this act or any rule, order, or condition lawfully imposed under this act has been wilfully violated, in connection with the offering by (a) the person filing the registration statement, (b) the issuer,

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any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (c) any underwriter;

(c) the security registered or sought to be registered is the subject of a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but (a) the commissioner may not institute a proceeding against an effective registration statement under this clause more than one (1) year from the date of the injunction relied on, and (b) he may not enter an order under this clause on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for an order under this section;

(d) the issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(e) the offering has worked or tended to work a fraud upon purchasers or would so operate;

(f) when a security is sought to be registered by notification, it is not eligible for such registration;

(g) when a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by section 9 (g);

(h) the applicant or registrant has failed to pay the proper registration fee; but the commissioner may enter only a denial order under this subsection and he shall vacate any such order when the deficiency has been corrected, or

(i) the offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of options.

Limitation on stop order.

(2) The commissioner may not enter a stop order against an effective registration statement on the basis

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of a fact or transaction known to him when the registration statement became effective.

Notice.

(3) Upon the entry of an order under subdivision (1) of this section, the commissioner shall promptly notify the issuer of the securities and the applicant or registrant that an order has been entered and of the reasons therefor and that if requested by the issuer or registrant within fifteen (15) days after the receipt of the commissioner's notification the matter will be set promptly down for hearing. If no hearing is requested within fifteen (15) days and none is ordered by the commissioner the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing may affirm, modify or vacate the order.

Hearing may be requested.

Exempt securities enumerated.

Section 13. **Exempt securities.** Sections 7 through 12, inclusive, of this act shall not apply to any of the following securities:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one (1) or more of the foregoing; or any certificate of deposit for any of the foregoing.

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one (1) or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor.

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized or chartered as such and under the jurisdiction and supervision of the superintendent of banks of any state.

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

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Exempt securities enumerated—(cont'd.)

(5) Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the insurance commissioner.

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state.

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (a) subject to the jurisdiction of the interstate commerce commission; (b) a registered holding company under the public utility holding company act of 1935 or a subsidiary of such a company within the meaning of that act; (c) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or (d) regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province; also equipment trust certificates in respect to equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this subsection.

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American stock exchange, the midwest stock exchange, or any other stock exchange registered with the federal securities and exchange commission and approved by the commissioner; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing.

(9) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes.

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transaction, and which evidences an obligation to pay cash within nine (9) months of the date

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Exempt securities enumerated— (cont'd.)

of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, when such commercial paper is sold to the banks or insurance companies.

(11) Any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan.

Exempt transactions enumerated.

Section 14. **Exempt transactions.** Except as hereinafter in this section expressly provided, sections 6 through 12 inclusive of this act shall not apply to any of the following transactions:

(1) Any isolated transaction, whether affected through a broker-dealer or not.

(2) Any non-issuer distribution of an outstanding security by a registered broker-dealer if (a) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen (18) months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or (b) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three (3) preceding fiscal years, or during the existence of the issuer and any predecessors if less than three (3) years, in the payment of principal, interest, or dividends on the security.

(3) Any non-issuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the commissioner may require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period.

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters.

(5) Any transaction by an executor, administrator, sheriff, marshall, receiver, trustee in bankruptcy, guardian, or conservator, in the performance of his official duties as such.

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Exempt transactions enumerated—(cont'd.)

(6) Any transaction executed by a bona fide pledgee without any purpose of evading this act.

(7) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the investment company act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(8) Any transaction pursuant to an offer directed by the offerer to not more than ten (10) persons (other than those designated in subsection (7)) in this state during any period of twelve (12) consecutive months, whether or not the offerer or any of the offerees is then present in this state, if (a) the seller reasonably believes that all the buyers are purchasing for investment, and (b) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer.

(9) Any offer or sale of a preorganization certificate or subscription if (a) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (b) the number of subscribers does not exceed ten (10), and (c) no payment is made by any subscriber.

(10) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, non-transferable warrants, or transferable warrants exercisable within not more than ninety (90) days of their issuance, if (a) no commisison or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state, or (b) the issuer first files a notice specifying the terms of the offer and the commissioner does not by order disallow either (a) or (b) of this subsection.

(11) Any offer (but not a sale) of a security for which registration statements have been filed under both this act and the securities act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act.

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Exempt transactions enumerated— (cont'd.)

(12) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock.

(13) Any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation or sale of assets.

Commissioner may deny or revoke exemption.

Notice.

Hearing may be requested.

The commissioner may by order deny or revoke the exemption specified in subsection (2) with respect to a specific security. Upon the entry of such an order, the commissioner shall promptly notify all registered broker-dealers that it has been entered and of the reasons therefor and that within fifteen (15) days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated this act by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order.

Consent to service of process— appointment of commissioner to accept.

Section 15. **Consent to service of process.** Every applicant for registration as a broker-dealer or investment adviser or salesman under this act, and every issuer which proposes to offer a security in this state, shall file with the commissioner, in such form as he prescribes, an irrevocable consent appointing the commissioner and his successors in office to be the attorney of the applicant to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or its or his successor, executor or administrator which arises under this act or any rule or order hereunder after the consent has been filed, with the same force and validity as if

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served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at its or his last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

Fees shall be paid in advance.

Section 16. **Fees.** The following fees shall be paid in advance under the provisions of this act:

(1) For the registration of securities by notification or coordination or qualification, there shall be paid to the commissioner for the first year of registration a registration fee of one hundred dollars ($100.00) for the first one hundred thousand dollars ($100,000.00) of initial issue, or portion thereof in this state, based on offering price; plus one-twentieth (1/20th) of one percent (1%) for any excess over one hundred thousand dollars ($100,000.00), with a maximum of one thousand dollars ($1,000.00).

Each year thereafter that a registration remains in effect for securities with respect to which reports are required to be filed under subsection (4) (a) of section 11, an additional registration fee shall be paid to the commissioner to be computed at one-twentieth (1/20th) of one percent (1%) of the aggregate offering price of such securities which are to be offered in this state during that year, even though the maximum fee was paid the preceding year. In no event shall the additional registration fee be less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00). The registration statement for such securities may be amended to increase the amount of securities to be offered. When an application for registration of securities is denied or withdrawn the commissioner shall retain fifty dollars ($50.00) of the fee.

(2) For filing an annual statement, the fee shall be ten dollars ($10.00).

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(3) For registration of a broker-dealer or investment adviser, the fee shall be one hundred dollars ($100.00) for original registration and one hundred dollars ($100.00) for each annual renewal thereof. When an application is denied or withdrawn the commissioner shall retain one-half (½) of the fee.

(4) For registration of a salesman, the fee shall be ten dollars ($10.00) for original registration with each employer; ten dollars ($10.00) for each annual renewal. When an application is denied or withdrawn the commissioner shall retain one-half (½) of the fee.

(5) For certified copies of any documents filed with the commissioner, the fee shall be the cost to the department.

Unlawful to make misleading filings.

Section 17. **Misleading filings.** It is unlawful for any person to knowingly make or cause to be made, in any document filed with the commissioner or in any proceeding under this act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

Unlawful to make false representations.

Section 18. **Unlawful representation concerning registration or exemption.** Neither the fact that an application for registration under section 6 (2), a registration statement under sections 8, 9 or 10 has been filed, nor the fact that a person or security is effectively registered, constitutes a finding by the commissioner that any document filed under this act is true, complete, and not misleading. Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the commissioner has passed in any way upon the merits of qualifications of, or recommended or given approval to, any person, security, or transaction. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with this section.

Commissioner may investigate.

Section 19. **Investigations and subpoenas.** (1) The commissioner in his discretion (1) may make such public or private investigations or examinations within or without this state as he deems necessary to determine whether any registration should be granted, denied or revoked or whether any person has violated or is about to violate any provision of this act or any rule or order

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hereunder, or to aid in the enforcement of this act or in the prescribing of rules and forms hereunder, (2) may require or permit any person to file a statement in writing, under oath or otherwise as the commissioner may determine, as to all the facts and circumstances concerning the matter to be investigated, and (3) may publish information concerning any violation of this act or any rule or order hereunder.

May administer oaths, issue subpoenas.

(2) For the purpose of any investigation or proceeding under this act, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

Contempt proceedings.

(a) In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction, upon application by the commissioner, may issue to that person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.

Self-incrimination no excuse.

(b) No person is excused from attending and testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Injunctions.

Section 20. **Injunctions.** Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation

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of any provision of this act or any rule or order hereunder, he may in his discretion bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this act or any rule or order hereunder. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner may not be required to post a bond.

Penalties.

Section 21. **Criminal liabilities.** (1) Any person who wilfully violates any provision of this act except section 17, or who wilfully violates any rule or order under this act, or who wilfully violates section 17 knowing the statement made to be false or misleading in any material respect, shall upon conviction be fined not more than five thousand dollars ($5,000.00) or imprisoned not more than three (3) years, or both; however, in the event the person so convicted has been previously convicted of a felony in any way involving securities, imprisonment hereunder for not less than one (1) year shall be mandatory. No indictment or information may be returned under this act more than five (5) years after the alleged violation.

(2) The commissioner may refer such evidence as may be available concerning violations of this act or of any rule or order hereunder to the attorney general or the proper prosecuting attorney, who may in his discretion, with or without such a reference, institute the appropriate criminal proceedings under this act.

(3) Nothing in this act limits the power of the state to punish any person for any conduct which constitutes a crime.

Civil liabilities.

Section 22. **Civil liabilities.** (1) Any person who offers or sells a security in violation of any provisions of sections 7 through 10 of this chapter or offers or sells a security by means of fraud or misrepresentation is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at six percent (6%) per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the

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security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at six percent (6%) per annum from the date of disposition.

(2) Every person who directly or indirectly controls a seller liable under subsection (1), every partner, officer or director (or person occupying a similar status or performing similar functions) or employee of such a seller, and every broker-dealer or salesman who participates or materially aids in the sale is liable jointly and severally with and to the same extent as the seller, if the non-seller knew or in the exercise of reasonable care could have known, of the existence of the facts by reason of which the liability is alleged to exist. There shall be contribution among the several persons so liable.

(3) Any tender specified in this section may be made at any time before entry of judgment. A cause of action under this statute survives the death of any person who might have been a plaintiff or a defendant. No person may sue under this section more than two (2) years after the contract of sale. No person may sue under this section (a) if the buyer has received a written offer at a time when he owned the security, to refund the consideration paid together with interest at six percent (6%) per annum from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within thirty (30) days of its receipt, or (b) if the buyer has received a written offer at a time when he did not own the security in the amount that would be recoverable under section 22 (1) of this title upon a tender less (1) the value of the security when the buyer disposed of it and (2) interest at six percent (6%) per annum from the date of disposition.

(4) No person who has made or engaged in the performance of any contract in violation of any provision of this act or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance

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with any provision of this act or any rule or order hereunder is void as against public policy and in the public interest.

Judicial review of orders.

Section 23. **Judicial review of orders.** Any person aggrieved by a final order of the commissioner may obtain a review of the order in any court of competent jurisdiction by filing in court, within sixty (60) days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the commissioner, and thereupon the commissioner shall certify and file in court a copy of the filing, testimony, and other evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. The findings of the commissioner as to the facts, if supported by creditable evidence, are conclusive, unless appealed from. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearing before the commissioner, the court may order the taking of additional evidence in such manner and upon such conditions as the court may consider proper. The commencement of proceedings under this action does not, unless specifically ordered by the court, operate as a stay of the commissioner's order.

Administration by state auditor, ex-officio investment commissioner.

Section 24. **Administration of act.** (1) The administration of the provisions of this act shall be under the general supervision and control of the state auditor, the ex officio investment commissioner. The commissioner may from time to time make, amend, and rescind such rules and forms as are necessary to carry out the provisions of this act. No rule or form may be made unless the commissioner finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this act. In prescribing rules and forms the commissioner may cooperate with the securities administrators of the other states and the securities and exchange commission with a view to effectuating the policy of this act to achieve maximum uniformity in the

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form and content of registration statements, applications, and reports wherever practicable.

Reimbursement for expenses.

(2) Any issuer or broker-dealer who is investigated or examined in connection with a registration under this act shall reimburse the commissioner, or any of his duly authorized agents, officers or employees for actual travel expenses, a reasonable living expense allowance, and a per diem as compensation of examiners, as necessarily incurred on account of the examination, all at reasonable rates customary therefor and as established and adopted by the commissioner, upon the effective date of this act and annually thereafter, upon presentation of a detailed account of such charges and expenses by the commissioner or pursuant to his written authorization. No person shall pay and no examiner shall accept any additional emolument on account of any such examination.

Fund created—disposition.

There is hereby created in the state treasury a special fund to be known as the "investment department examinations revolving fund." The commissioner shall pay to the state treasurer to the credit of this special fund all monies received hereunder. This fund shall be used only for or toward payment of travel, living allowance and other expenses incurred by the commissioner and his examiners in the making of examinations under this code, and the compensation of such examiners, upon such bases as the commissioner may fix for the purposes of this section. In lieu of deposit thereof in such fund, the commissioner may give written authorization for payment, by the person examined, of such travel expenses and living allowance direct to the examiner. Any other law of this state to the contrary notwithstanding, the travel expense and living allowance of examiners shall be as fixed by the commissioner pursuant to this section.

If any issuer or broker-dealer fails to pay the charges and expenses referred to above the same shall be paid out of the funds of the commissioner in the same manner as other disbursements of such funds. The amount so paid shall be a first lien upon all of the assets and property in this state of such issuer or broker-dealer, and may be recovered by suit by the attorney general on behalf of the State of Montana, and restored to the appropriate fund. Failure of such issuer or broker-dealer to pay such

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charges and expenses shall also work a forfeiture of his or its right to do business in this state under this act.

Unlawful to use information for personal benefit.

(3) It is unlawful for the commissioner or any of his officers or employees to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public. No provision of this act authorizes the commissioner or any of his officers or employees to disclose any such information or the fact that any investigation is being made, except among themselves or when necessary or appropriate in a proceeding or investigation under this act.

Application.

(4) No provision of this act imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the commissioner, notwithstanding that the rule or form may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

Hearings shall be public.

(5) Every hearing in an administrative proceeding shall be public unless the commissioner in his discretion grants a request joined in by all the respondents that the hearing be conducted privately.

Register shall be kept.

(6) A document is filed when it is received by the commissioner. The commissioner shall keep a register of all applications for registration and registration statements which are or have ever been effective under this act and all denial, suspension, or revocation orders which have ever been entered under this act. The register shall be open for public inspection. The information contained in or filed with any registration statement, application, or report may be made available to the public under such rules as the commissioner prescribes.

Copies.

(7) Upon request and at such reasonable charges as he prescribes, the commissioner shall furnish to any person photostatic or other copies (certified under his seal of office if requested) of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this act, any copy so certified is prima facie evidence of the contents of the entry or document certified.

Burden of proof—exemption.

Section 25. **Proof of exemption.** In any proceeding under this act, the burden of proving an exemption or

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an exception from a definition is upon the person claiming it.

Permits effective.

Section 26. All effective permits issued under prior law relating to the sale of any security and all conditions imposed upon such permits shall remain in effect so long as they would have remained in effect had they become effective under this act subject, however, to the payment on September 1, 1961 by the issuer of such securities of a renewal registration fee required by section 16 of this act. All stockbrokers and salesmen registered under prior law on the effective date of this act shall be deemed duly registered under and subject to the provisions of this act, such registration to expire on March 1, 1962 and to be subject to renewal as provided in this act.

Severability clause.

Section 27. **Constitutionality.** If any part or parts of this act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act. The legislature hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional.

Repealing clause.

Section 28. That section 66-2001; section 66-2002, as amended by section 1, chapter 178, laws of Montana, 1957; section 66-2003, as amended by section 2, chapter 178, laws of Montana, 1957; sections 66-2004 through 66-2006; section 66-2007, as amended by section 3, chapter 178, laws of Montana, 1957; sections 66-2008 through 66-2017; section 66-2018, as amended by section 4, chapter 178, laws of Montana, 1957; sections 66-2019 through 66-2022; section 66-2023, as amended by section 5, chapter 178, laws of Montana, 1957; section 66-2024, as amended by section 6, chapter 178, laws of Montana, 1957; sections 66-2025 and 66-2026, Revised Codes of Montana, 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1961.

Section 29. This act shall be in full force and effect from and after July 1, 1961.

Approved March 17, 1961.

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APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

ENACTED BY THE

Thirty-seventh Legislative Assembly

STATE OF MONTANA

1961

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APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

HOUSE BILL NO. 1

An Act to Appropriate Money for the Legislative Assembly and for the Payment of Per Diem to the Officers and Attaches and for Incidental Expenses of the Thirty-seventh Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated, out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, but for no other;

For the payment of mileage and per diem to the members of the thirty-seventh legislative assembly of the State of Montana.

One hundred eighty-six thousand five hundred dollars $186,500.00

For the payment of per diem to the officers and attaches of the thirty-seventh legislative assembly of the State of Montana.

One hundred fifty-seven thousand six hundred ninety-six dollars $157,696.00

For the payment of incidental expenses of the thirty-seventh legislative assembly of the State of Montana.

Eighty-six thousand seven hundred forty-nine dollars....$ 86,749.00

Section 2. The amounts appropriated herein are to be used for the purpose designated. However, if there is a surplus in any one item, it may be transferred to either of the other two items appropriated herein for the legislative assembly; provided the aggregate amount of all three appropriations shall be neither increased or decreased.

Section 3. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved January 6, 1961.

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HOUSE BILL NO. 26

An Act to Appropriate Eighty Thousand Dollars ($80,000) for the Operation and Expenses of the Legislative Council for the Period Beginning July 1, 1961 and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The sum of *eighty thousand dollars ($80,000) is* hereby appropriated out of the general fund to the legislative council for the period beginning July 1, 1961 and ending June 30, 1963 for its operations and expenses *in carrying out the provisions of House Joint Resolution No. 1 and House Joint Resolution No. 8.*

Section 2. This appropriation shall be held valid notwithstanding the provisions of the budget act.

Approved March 7, 1961.

HOUSE BILL NO. 188

An Act to Appropriate Money to the Board of Examiners for the Payment of Certain Contract Obligations at the Montana State Prison, Said Lands Under Contract Known as Deer Lodge Valley Farms, Payment of Lease on Certain State and Forest Lands, Payment of Taxes on Lands Under Purchase Contract and to Pay Interest on Unpaid Balance; and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of carrying out the provisions as set forth in this act.

FROM THE GENERAL FUND

For obligations incurred by the board of examiners for the payment of purchase contract on lands *at the state prison,* lease on certain lands *at the state prison,* payment of taxes, payment of interest, for the sum of one hundred sixty-eight thousand, eight hundred ninety-three dollars and thirty-five cents ($168,893.35), more particularly itemized as follows:

Two yearly payments of sixty-five thousand, nine hundred ninety-two dollars and twenty cents ($65,992.20) for 1961 and 1962; one hundred thirty-one thousand, nine hundred eighty-four dollars and forty cents $131,984.40

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Interest on unpaid balances for the years 1961 and 1962, eight thousand, nine hundred eight dollars and ninety-five cents ..... $ 8,908.95

Taxes for years 1961 and 1962, nineteen thousand dollars ..... $ 19,000.00

Leases on land, payable to state land office for 1961 and 1962, six thousand, five hundred dollars ..... $ 6,500.00

Forestry fire protection for 1961 and 1962, five hundred dollars ..... $ 500.00

Contingencies for 1961 and 1962, two thousand dollars ..... $ 2,000.00

Section 2. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 16, 1961.

SUBSTITUTE HOUSE BILL NO. 205

An Act to Appropriate Money for the Payment of Certain Deficiency Claims Arising From Obligations Incurred by the State Board of Equalization for Refunds on Overpayment of Inheritance Tax, Refunds of Corporation License Tax and for Refunds of Cigarette Tax; for the Prosecution of a Lawsuit; for Amounts Due on Oil and Gas Penalties; and for Employers' Contribution to the Public Employees' Retirement System; and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the following deficiency and supplemental claims:

FROM THE GENERAL FUND

For the prosecution of a lawsuit on behalf of the State of Montana: P. J. Gilfeather—five hundred dollars ($500.00). For obli-

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gations incurred by the state board of equalization through the overpayment of inheritance tax, six thousand six hundred thirty-nine dollars and thirty cents ($6,639.30), more particularly itemized as follows:

Inheritance tax, estate of William C. McLeod	$	3,348.87
Inheritance tax, estate of Louis R. Hartmouth	$	225.51
Inheritance tax, estate of Nellie H. Barber	$	160.17
Inheritance tax, estate of Grace M. O'Donnell	$	1,859.23
Inheritance tax, Nelle Harrington (Nelle) Vaughn	$	217.44
Inheritance tax, estate of Emma Sophia Kelle	$	170.37
Inheritance tax, estate of Charles E. Hayden	$	657.71

For obligations incurred by the state board of equalization through refunds on corporation license tax, two thousand seven hundred nine dollars and sixty-six cents ($2,709.66), more particularly itemized as follows:

S. Birch & Sons Construction Company	$	315.67
Kellogg Implement Company	$	78.49
Lohof Brothers Company	$	179.74
Motorola Finance Corporation	$	56.92
Musselshell Realty Company	$	15.27
Studer Construction Company	$	1,049.39
Roberts Loan & Cattle Company	$	938.81
Worden Community Water Users Association	$	75.37

For oil and gas penalties due, one thousand one hundred ten dollars ($1,110.00), more particularly itemized as follows:

Alton Sterry	$	635.00
Oscar Edmunds	$	475.00

For obligations incurred by district judges, for employers contributions to the public employees retirement system, three thousand one hundred eighty-seven dollars and fifty-seven cents ($3,187.57), more particularly itemized as follows:

Hon. Robert J. Nelson, 8th judicial district	$	265.65
Hon W. R. Flachsenhar, 16th judicial district	$	674.27
Hon W. R. Flachsenhar, 16th judicial district	$	1,816.49
County Attorney E. Gardner Brownlee, 4th judicial district	$	214.08
Hon. George J. Allen, 6th judicial district	$	217.08

For employers contribution to the public employees retirement system:

State department of agriculture	$	1,108.55
State board of equalization	$	495.67

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For obligations incurred by the thirty-sixth legislative assembly, one thousand seven hundred eighteen dollars and seventy-three cents ($1,718.73), more particularly itemized as follows:

#407-S for State Publishing Company	$	1,624.39
#407-H for D. N. Latus & Company, Incorporated	$	94.34

For obligations incurred by the state board of equalization through refund on cigarette tax, one thousand four hundred ninety-six dollars and fifty cents ($1,496.50), more particularly itemized as follows:

Great Northern Railway Company	$	10.64
Ryan Grocery Company	$	136.80
Sheehan Brothers & Hober, Incorporated	$	373.16
Philip Morris, Incorporated	$	975.90

FROM THE WAR VETERANS COMPENSATION BOND RETIREMENT FUND NO. 1 (387-15)

For obligation incurred by the state board of equalization through refund on cigarette tax, five hundred seventy-three dollars and sixty-five cents ($573.65), more particularly itemized as follows:

Lewis Sales Company	$	85.73
Service Candy Company	$	487.92

FROM THE WAR VETERANS COMPENSATION BOND RETIREMENT FUND NO. 2 (387-41)

For obligations incurred by the state board of equalization through refund on cigarette tax, two hundred eighty-three dollars and forty-eight cents ($283.48), more particularly itemized as follows:

Northern Jobbing Company	$	228.00
Sheehan Brothers & Flynn, Incorporated	$	45.60
U.R.M. Stores, Incorporated	$	5.32
United States Tobacco Company	$	4.56

Section 2. This act is effective on passage and approval.

Approved February 21, 1961.

HOUSE BILL NO. 371

An Act to Appropriate Money for Payment of the Share of This State of the Expenses of the National Conference of Commissioners on Uniform State Laws, and for Travel Expenses of the

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Commissioners on Uniform State Laws, for the Period Beginning July 1, 1961, and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the period beginning July 1, 1961, and ending June 30, 1962, the following sums or so much thereof as may be necessary:

For payment of the share of this state of the expenses of the National Conference of Commissioners on Uniform State Laws ..... $ 600.00

For the payment of travel expenses incurred in attending official meetings, including mileage or transportation and allowance for per diem as provided by law, of members of the Commission on Uniform State Laws ..... $ 1,500.00

Section 2. That there is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the period beginning July 1, 1962, and ending June 30, 1963, the following sums or so much thereof as may be necessary:

For payment of the share of this state of the expenses of the National Conference of Commissioners on Uniform State Laws ..... $ 600.00

For the payment of travel expenses incurred in attending official meetings, including mileage or transportation and allowance for per diem as provided by law, of members of the Commission on Uniform State Laws ..... $ 1,500.00

Section 3. The amounts of the expenses herein provided for shall be certified to the appropriate state agency by the chairman of the commission, and such agency is hereby authorized to approve such expenses and the state auditor to draw warrants therefor.

Section 4. The appropriations herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 6, 1961.

HOUSE BILL NO. 374

An Act to Appropriate Money for the State Public School Equal-

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ization Fund and Providing for the Manner of Distribution Thereof for the Period Beginning July 1, 1961, and Ending June 30, 1963; and Providing That the Appropriations Herein Shall be Valid Notwithstanding the Provisions of the Budget Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there is hereby appropriated from the state treasury to the state public school equalization fund, to be distributed in accordance with the provisions of law, for the period beginning July 1, 1961, and ending June 30, 1962, the following sum or so much thereof as may be necessary:

FROM THE GENERAL FUND

For public school equalization, eight million fifty-seven thousand three hundred seventy-four dollars .....$ 8,057,374.00

For school transportation for reimbursement, one million thirteen thousand six hundred dollars .....$ 1,013,600.00

Section 2. That there is hereby appropriated from the state treasury to the state public school equalization fund, to be distributed in accordance with the provisions of law, for the period beginning July 1, 1962, and ending June 30, 1963, the following sum, or so much thereof as may be necessary:

FROM THE GENERAL FUND

For public school equalization, eight million five hundred seventy-seven thousand one hundred thirty-seven dollars .....$ 8,577,137.00

For school transportation for reimbursement, one million, one hundred thirteen thousand dollars .....$ 1,113,000.00

Section 3. No part of such funds shall be distributed prior to December 2, 1961.

Section 4. It is hereby provided that none of the funds allocated, or any other funds allocated to the state public school equalization fund, shall be paid out to the school districts of the state in excess of the foundation program needs, as established by section 75-3612, Revised Codes of Montana, 1947, as amended or in excess of the state equalization percentage established under the provisions of section 75-3619, Revised Codes of Montana, 1947.

Section 5. The appropriations hereinabove provided for shall be

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deemed and held valid notwithstanding the provisions of the budget act.

Approved March 15, 1961.

HOUSE BILL NO. 438

An Act to Appropriate Money for the Purchase of Cumulative Pocket Supplements of 1961, for the Revised Codes of Montana, 1947; and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum or sums or so much thereof as may be necessary be, and the same are hereby appropriated, for the purchase of cumulative pocket supplements of 1961, for the Revised Codes of Montana, 1947, as follows:

FROM THE GENERAL FUND

Four hundred fifty-six (456) sets cumulative pocket supplements for 1961, for the Revised Codes of Montana, 1947, at twenty-two dollars ($22.00) per set, ten thousand thirty-two dollars ..... $ 10,032.00

Section 2. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 21, 1961.

HOUSE BILL NO. 439

An Act to Appropriate Money for the Purchase of Replacement Volume Four of the Revised Codes of Montana of 1947; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum or sums or so much thereof as may be necessary be, and the same are hereby, appropriated out of any money in the state treasury not otherwise appropriated, for the purchase of replacement volume IV of the Revised Codes

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of Montana, 1947, published by the publishers and distributors thereof, as follows:

FROM THE GENERAL FUND

For four hundred fifty-six (456) copies of replacement volume IV in two parts, at twenty-four dollars ($24.00) per volume, ten thousand nine hundred forty-four dollars ..... $ 10,944.00

Section 2. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 21, 1961.

HOUSE BILL NO. 440

An Act to Appropriate Money for the Purpose of Paying Certain Expenses for Northern Montana College and to Transfer Monies From One Account to Another Within the Present Appropriations of Montana State College, the Agricultural Experiment Station and Substations, the Agricultural Extension Service, Eastern Montana College of Education, Northern Montana College, and Montana State University for the Current Biennium Ending June 30, 1961; and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts are hereby transferred from one account to another as enumerated, for the current biennium ending June 30, 1961.

MONTANA STATE COLLEGE

FROM ACCOUNT NO. 267-1 (MILLAGE FUND)

To account No. 267-5 (social security) ..... $ 9,100.00

FROM ACCOUNT NO. 267-6 (PUBLIC EMPLOYEES RETIREMENT)

To account No. 267-4 (teachers retirement) ..... $ 10,500.00
To account No. 267-5 (social security) ..... $ 3,900.00

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AGRICULTURAL EXPERIMENT STATION

FROM ACCOUNT NO. 268-1 (MILLAGE FUND)

To account No. 268-3 (teachers' retirement)	$	7,500.00
To account No. 268-2 (social security)	$	1,500.00

FROM ACCOUNT NO. 268-4 (PUBLIC EMPLOYEES RETIREMENT)

To account No. 268-2 (social security)	$	2,000.00

EXPERIMENTAL SUBSTATIONS OF THE MONTANA AGRICULTURAL EXPERIMENT STATION

CENTRAL MONTANA BRANCH STATION

FROM ACCOUNT NO. 269-5 (MILLAGE FUND)

To account No. 269-1 (teachers' retirement)	$	410.00
To account No. 269-8 (social security)	$	315.00

EASTERN MONTANA BRANCH STATION

FROM ACCOUNT NO. 269-9 (MILLAGE FUND)

To account No. 269-1 (teachers' retirement)	$	310.00
To account No. 269-8 (social security)	$	360.00

WESTERN MONTANA BRANCH STATION

FROM ACCOUNT NO. 269-10 (MILLAGE FUND)

To account No. 269-1 (teachers' retirement)	$	310.00
To account No. 269-8 (social security)	$	200.00

NORTHWESTERN MONTANA BRANCH STATION

FROM ACCOUNT NO. 802-4 (GENERAL FUND)

To account No. 269-1 (teachers' retirement)	$	310.00
To account No. 269-8 (social security)	$	260.00

U. S. RANGE LIVESTOCK EXPERIMENT STATION

FROM ACCOUNT NO. 802-5 (GENERAL FUND)

To account No. 269-8 (social security)	$	930.00

MONTANA GRAIN INSPECTION LABORATORY

FROM ACCOUNT NO. 802-7 (GENERAL FUND)

To account No. 269-1 (teachers' retirement)	$	410.00
To account No. 269-8 (social security)	$	450.00

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MONTANA WOOL LABORATORY

FROM ACCOUNT NO. 802-8 (GENERAL FUND)

To account No. 269-1 (teachers' retirement) .....$ 280.00
To account No. 269-8 (social security) .....$ 265.00

NORTH MONTANA BRANCH STATION

FROM ACCOUNT NO. 802-9 (GENERAL FUND)

To account No. 269-1 (teachers' retirement) .....$ 530.00
To account No. 269-8 (social security) .....$ 585.00

HUNTLEY BRANCH STATION

FROM ACCOUNT NO. 802-11 (GENERAL FUND)

To account No. 269-1 (teachers' retirement) .....$ 440.00
To account No. 269-8 (social security) .....$ 935.00

AGRICULTURAL EXTENSION SERVICE

FROM ACCOUNT NO. 270-1 (MILLAGE FUND)

To account No. 270-2 (teachers' retirement) .....$ 500.00
To account No. 270-3 (public employees' retirement system) .....$ 2,000.00
To account No. 270-4 (social security) .....$ 1,700.00

EASTERN MONTANA COLLEGE OF EDUCATION

FROM ACCOUNT NO. 904 (GENERAL FUND)

To account No. 271-2 (teachers' retirement) .....$ 3,671.87
To account No. 271-3 (public employees' retirement system) .....$ 1,485.68
To account No. 271-4 (social security) .....$ 9,501.57

MONTANA STATE UNIVERSITY

FROM ACCOUNT NO. 276-2 (MILLAGE FUND)

To account No. 276-3 (social security) .....$ 3,000.00

FROM ACCOUNT NO. 276-1 (MILLAGE FUND)

To account No. 276-4 (teachers' retirement) .....$ 10,000.00

NORTHERN MONTANA COLLEGE

FROM ACCOUNT NO. 273-1 (MILLAGE FUND)

To account No. 273-4 (social security) .....$ 2,720.00

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Section 2. The following amount is hereby appropriated for the current biennium ending June 30, 1961 to

NORTHERN MONTANA COLLEGE

FROM THE GENERAL FUND

For social security, teachers' retirement and public employees' retirement system ..... $ 8,500.00

Section 3. This act shall be effective after passage and approval.

Approved March 3, 1961.

HOUSE BILL NO. 444

An Act to Transfer Moneys From One Account to Another Within the Present Appropriations of the Board of Railroad Commissioners, the Department of Agriculture, State Tuberculosis Sanatorium, State Treasurer, State Hospital, Attorney General, Supreme Court, Department of State Lands and Investments and the Secretary of State and to Appropriate Money From the General Fund for the Purpose of Paying Certain Expenses for the Secretary of State, the State PBX Division, District Judges, County Attorneys, the State Board of Examiners and the State Forester for the Current Biennium Ending June 30, 1961; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following accounts are hereby transferred from one account to another as enumerated, for the current biennium ending June 30, 1961:

BOARD OF RAILROAD COMMISSIONERS

FROM ACCOUNT NO. 686-5

To account No. 686-1	$ 1,500.00
To account No. 686-6	$ 1,254.00

DEPARTMENT OF AGRICULTURE

FROM ACCOUNT NO. 510-16

To account No. 510-20	$ 175.00
To account No. 510-13	$ 150.00
To account No. 510-17	$ 150.00
To account No. 510-38	$ 575.00

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STATE TUBERCULOSIS SANATORIUM

FROM ACCOUNT NO. 743-2

To account No. 743-3 ..... $ 3,500.00

STATE TREASURER

FROM ACCOUNT NO. 740-2

To account No. 740-3 ..... $ 245.00
To account No. 740-5 ..... $ 229.00

STATE HOSPITAL

FROM ACCOUNT NO. 040

To account No. 631-7 ..... $ 8,000.00
To account No. 631-6 ..... $ 21,000.00

SUPREME COURT

FROM ACCOUNT NO. 726-1

To account No. 726-5 ..... $ 2,488.00
To account No. 726-3 ..... $ 69.00

ATTORNEY GENERAL

FROM ACCOUNT NO. 283

To account No. 518-6 ..... $ 1,000.00

DEPARTMENT OF STATE LANDS AND INVESTMENTS

FROM ACCOUNT NO. 640-11

To account No. 640-6 ..... $ 160.00

SECRETARY OF STATE

FROM ACCOUNT NO. 209

To account No. 697-1 ..... $ 1,890.00

Section 2. The following amounts are hereby appropriated for the current biennium ending June 30, 1961 to

SECRETARY OF STATE

FROM THE GENERAL FUND

Salaries and expenses ..... $ 6,260.00
Public employees retirement system and social security ..... $ 2,061.00

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STATE PBX DIVISION

FROM THE GENERAL FUND

Salaries and expenses ..... $ 6,821.00

DISTRICT JUDGES

FROM THE GENERAL FUND

Salaries ..... $ 14,200.00
Travel and expenses ..... $ 15,000.00

COUNTY ATTORNEYS

FROM THE GENERAL FUND

Salaries ..... $ 600.00

STATE BOARD OF EXAMINERS

FROM THE GENERAL FUND

Requisition of prisoners ..... $ 18,500.00

STATE FORESTER

FROM THE GENERAL FUND

Blackfoot forest protective association assessments ..... $ 32,013.67

Section 3. This act shall be effective after passage and approval.

Approved March 3, 1961.

HOUSE BILL NO. 446

An Act to Transfer Monies From One Account to Another Within the Present Appropriations of the State Industrial School, the Montana Children's Center and the Vocational School for Girls; to Transfer Monies From the Present Appropriation of the State Industrial School to the Montana Children's Center; and to Appropriate Money for the Purpose of Paying Certain Expenses of the Montana Children's Center for the Current Biennium Ending June 30, 1961; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts are hereby transferred from one account to another as enumerated for the current biennium ending June 30, 1961:

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STATE INDUSTRIAL SCHOOL

FROM ACCOUNT NO. 628-7

To account No. 628-15 ..... $ 62,878.00

MONTANA CHILDREN'S CENTER

From account No. 660-5	$ 807.29
From account No. 660-2	$ 2,124.49
From account No. 628-7 (state industrial school)	$ 27,122.00
To account No. 660-15	$ 3,703.02
To account No. 660-01	$ 26,350.76

STATE VOCATIONAL SCHOOL FOR GIRLS

From account No. 754-2	$ 2,137.28
From account No. 754-1	$ 234.72
To account No. 754-5	$ 2,372.00

Section 2. The following amount is hereby appropriated for the current biennium ending June 30, 1961 to

MONTANA CHILDREN'S CENTER

FROM THE GENERAL FUND

For salaries and expenses ..... $ 9,563.17

Section 3. This act shall be effective after passage and approval.

Approved March 2, 1961.

HOUSE BILL NO. 448

An Act to Appropriate Money for the Purpose of Paying Additional Incidental Expenses of the Thirty-seventh Legislative Assembly; Providing That the Appropriations Herein Shall be Valid Notwithstanding the Provisions of the Budget Act and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary, be and the same is hereby appropriated out of any monies in the state treasury, not otherwise appropriated, from the following named fund:

FROM THE GENERAL FUND

For the purpose of paying additional incidental ex-

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penses of the thirty-seventh legislative assembly, the sum of sixty-six thousand dollars .....$ 66,000.00

Section 2. The appropriations herein provided for shall be held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1961.

HOUSE BILL NO. 450

An Act to Appropriate Money for the State Department of Public Welfare of the State of Montana for Public Assistance, for Administrative Costs in the State Department and in the County Departments of Public Welfare and for All Other Expenditures Coming Under the State Department of Public Welfare Which They May Lawful Incur, for the Period Beginning With July 1, 1961, and Terminating With June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated for the state department of public welfare of the State of Montana, out of any funds in the state treasury not otherwise appropriated, the sum of *three million one-hundred forty-five thousand four hundred sixty-three dollars ($3,145,463.00),* for public assistance, for administrative costs in the state department and the county departments of public welfare and for all other expenditures coming under the state department of public welfare which they may lawfully incur for the fiscal year beginning with July 1, 1961, and terminating with June 30, 1962.

Section 2. Without hereby limiting the powers of the state board of public welfare, as in this act otherwise provided, the amounts appropriated in the foregoing section and paid into the public welfare fund of the state treasury may be expended for the following purposes:

(a) For old age assistance, the sum of one million one hundred seventy-five thousand thirty-five dollars ..$ 1,175,035.00

(b) For aid to dependent children, the sum of seven hundred ninety-five thousand seven hundred seventy-five dollars .....$ 795,775.00

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(c) For aid to needy blind, the sum of one hundred forty-five thousand seven hundred twenty-five dollars ..... $ 145,725.00

(d) For aid to the permanently and totally disabled, the sum of one hundred seventy-seven thousand three hundred seventy-two dollars ..... $ 177,372.00

(e) For child welfare services, including all state administrative costs, the sum of eighty-four thousand dollars ..... $ 84,000.00

(f) For the payment of board and room for dependent and neglected children in approved family foster homes in cases where the county of residence of such children pay one half of such cost, the sum of sixty-nine thousand four hundred thirty-eight dollars ..... $ 69,438.00

(g) For general relief and contingencies, the sum of four hundred twenty-six thousand six hundred fifty dollars ..... $ 426,650.00

(h) For salary of administrator, the sum of ten thousand eight hundred dollars ..... $ 10,800.00

(i) For administrative costs of the state department not otherwise provided for including advances of the compensation and expenses of the personnel staff attached to county welfare boards the sum of *two hundred sixty thousand six hundred sixty-eight dollars* ..... $ 260,668.00

Section 3. There is hereby appropriated for the state department of public welfare of the State of Montana out of any funds in the state treasury not otherwise appropriated the sum of *three million one hundred forty-five thousand four hundred sixty-three dollars ($3,145,463.00),* for public assistance, for administrative costs in the state department and in the county departments of public welfare and for all other expenditures coming under the state department of public welfare which they may lawfully incur for the fiscal year beginning with July 1, 1962 and terminating with June 30, 1963.

Section 4. Without hereby limiting the powers of the state board of public welfare, as in this act otherwise provided, the amounts appropriated in the foregoing section and paid into the public welfare fund of the state treasury may be expended for the following purposes:

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(a) For old age assistance, the sum of *one million one hundred seventy-five thousand thirty-five dollars* ..$ 1,175,035.00

(b) For aid to dependent children, the sum of seven hundred ninety-five thousand seven hundred seventy-five dollars .....$ 795,775.00

(c) For aid to needy blind, the sum of one hundred forty-five thousand seven hundred twenty-five dollars .....$ 145,725.00

(d) For aid to the permanently and totally disabled, the sum of one hundred seventy-seven thousand three hundred seventy-two dollars .....$ 177,372.00

(e) For child welfare services, including all state administrative costs, the sum of eighty-four thousand dollars .....$ 84,000.00

(f) For the payment of board and room for dependent and neglected children in approved family foster homes in cases where the county of residence of such children pay one half of such cost, the sum of sixty-nine thousand four hundred thirty-eight dollars .....$ 69,438.00

(g) For general relief and contingencies, the sum of four hundred twenty-six thousand six hundred fifty dollars .....$ 426,650.00

(h) For salary of administrator, the sum of ten thousand eight hundred dollars .....$ 10,800.00

(i) For administrative costs of the state department not otherwise provided for including advances of the compensation and expenses of the personnel staff attached to county welfare boards the sum of *two hundred sixty thousand six hundred sixty-eight dollars* .....$ 260,668.00

Section 5. In addition to the foregoing appropriations, there is hereby appropriated for both of the two (2) fiscal years all balances of prior appropriations unexpended on June 30, 1961, and all funds which may be received from counties as reimbursements for the purposes for which they are designated and any other funds which may be received by the state department of public welfare.

Section 6. Any money hereby appropriated for the state department of public welfare and specified for any account or purpose and not needed for such account or purpose, may be transferred by

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the state board of public welfare to any other account or purpose under the authority of the department, except that no part of any items shall be transferred to administrative costs.

Section 7. The appropriation hereby provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 14, 1961.

HOUSE BILL NO. 454

An Act to Appropriate Money for the Operation and Maintenance of Certain State Agencies for the Period Beginning July 1, 1961 and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In this act, unless otherwise required by the context:

(1) The term "operation" means all ordinary operating expenses and includes salaries and employers' contributions to social security, public employees' retirement system and teachers' retirement system.

(2) The term "capital," unless otherwise defined, means all articles, fixtures and goods of a permanent nature, including the repair or replacement of capital assets, but does not include the construction of buildings or purchase of land.

Section 2. The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided; however, in cases of necessity, appropriations not expended during the first fiscal year may be expended during the second fiscal year. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1961 and ending June 30, 1962.

STATE P. B. X. DIVISION

FROM THE GENERAL FUND

Salary of department head, five thousand four hundred dollars ..... $ 5,400.00

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Operation, twenty-nine thousand eight hundred thirty-four dollars ..... $ 29,834.00

Capital, twenty-five dollars ..... $ 25.00

It is hereby provided that the state highway commission, unemployment compensation commission, fish and game commission, liquor control board, industrial accident board, board of education, superintendent of public instruction, oil and gas conservation commission, public employees' retirement system, executive secretary of the university of Montana, social security division, teachers' retirement system, adjusted compensation division, board of hail insurance, board of examiners for nurses, board of plumbing examiners, livestock commission, joint merit system and state aeronautics commission shall pay their proportionate shares of the cost of operating the P. B. X. division, as determined by the state controller, to the state controller for deposit to the credit of the general fund of the State of Montana.

CIVIL DEFENSE AGENCY

FROM THE GENERAL FUND

Salary of director, three thousand three hundred dollars ..... $ 3,300.00

Operation, seventeen thousand nine hundred forty-one dollars ..... $ 17,941.00

Capital, one thousand two hundred dollars ..... $ 1,200.00

FROM THE CIVIL DEFENSE FUND

Capital, forty thousand dollars ..... $ 40,000.00

FROM CIVIL DEFENSE FUND U. S. AID (PL 85-606)

Salary of director, three thousand three hundred dollars ..... $ 3,300.00

Operation, seventeen thousand nine hundred forty-one dollars ..... $ 17,941.00

Capital, one thousand two hundred dollars ..... $ 1,200.00

STATE PARKS

FROM THE GENERAL FUND

Salary of director, six thousand dollars ..... $ 6,000.00

Operation, sixty-three thousand two hundred seventy dollars ..... $ 63,270.00

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Capital, ten thousand three hundred forty dollars .....$ 10,340.00

FROM STATE PARKS FUND

Operation, twenty-seven thousand five hundred dollars ..$ 27,500.00
Capital, five thousand dollars .....$ 5,000.00

FROM TIBER PARK FUND

Operation, eight hundred dollars .....$ 800.00

FROM PARKS CONCESSIONAIRES FUND

For payments as per contract, eight thousand five hundred dollars .....$ 8,500.00

FROM CANYON FERRY PARK FUND

Operation, five thousand three hundred dollars .....$ 5,300.00
Capital, seven hundred dollars .....$ 700.00

CAPITOL CUSTODIAN

FROM THE GENERAL FUND

Salary of department head, five thousand four hundred dollars .....$ 5,400.00
Operation, two hundred sixty-one thousand six hundred eighty-five dollars $261,685.00
Capital, two thousand dollars .....$ 2,000.00
Sprinkler system renovation, eight thousand dollars .....$ 8,000.00
Lamps and outlets in secretary of state's vault, two hundred seventy-six dollars .....$ 276.00

FROM HIGHWAY FUND

Operation, twenty-five thousand dollars .....$ 25,000.00

TRANSPORTATION OF PRISONERS

FROM THE GENERAL FUND

Expense of transporting prisoners, thirty thousand dollars .....$ 30,000.00

BOARD OF PARDONS

FROM THE GENERAL FUND

Salary of department head, seven thousand dollars .....$ 7,000.00
Operation, eighty-one thousand seven hundred two dollars .....$ 81,702.00

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Capital, one thousand dollars ..... $ 1,000.00

STATE CONTROLLER

FROM THE GENERAL FUND

Salary of controller, seven thousand dollars ..... $ 7,000.00
Operation, *one hundred eleven thousand seven hundred seven dollars* *$111,707.00*
Capital, one thousand dollars ..... $ 1,000.00

FROM THE HIGHWAY FUND

Operation, twenty-five thousand dollars ..... $ 25,000.00

FROM THE MILLAGE FUND

Operation, fifteen thousand dollars ..... $ 15,000.00

FROM THE FISH AND GAME FUND

Operation, twelve thousand five hundred dollars ..... $ 12,500.00

APPRENTICESHIP COUNCIL

FROM THE GENERAL FUND

Operation, six thousand dollars ..... $ 6,000.00

VETERAN'S WELFARE *COMMISSION*

FROM THE GENERAL FUND

Salary of director, seven thousand two hundred dollars ..... $ 7,200.00
Operation, one hundred thirteen thousand six hundred fifty-one dollars $113,651.00
Payment of secretarial services to those veterans' organizations maintaining full-time service offices at Fort Harrison, Montana ..... $ 6,000.00

ADJUSTED COMPENSATION DIVISION

FROM THE VETERANS' COMPENSATION FUND

As much as may be necessary to pay all lawful claims as provided by law.

BOARD OF HEALTH

FROM THE GENERAL FUND

Salary of director, fifteen thousand dollars ..... $ 15,000.00

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Operation, three hundred thirty-three thousand two hundred dollars $333,200.00
Capital, one thousand eight hundred dollars ..... $ 1,800.00

In addition thereto, there is hereby appropriated any money that may be received from the federal government to be used as provided in the grants for the various departments and hereby reappropriate any unexpended state funds.

HISTORICAL SOCIETY

FROM THE GENERAL FUND

Salary of director, nine thousand dollars ..... $ 9,000.00
Operation, fifty-four thousand eight hundred dollars .. $ 54,800.00
Capital, two hundred dollars ..... $ 200.00

FROM THE HISTORICAL SOCIETY FUND

Operation, eighty-three thousand dollars ..... $ 83,000.00
Capital, eleven thousand dollars ..... $ 11,000.00

FROM THE RUSSELL PAINTING FUND

As much as may be necessary.

FROM THE MAGAZINE FUND

As much as may be necessary.

LAW LIBRARY

FROM THE GENERAL FUND

Salary of department head, five thousand three hundred dollars ..... $ 5,300.00
Operation, three thousand nine hundred eleven dollars .. $ 3,911.00
Capital, four thousand six hundred sixty-six dollars ..... $ 4,666.00

FROM THE LAW LIBRARY FUND

Capital, four thousand one hundred forty-four dollars .. $ 4,144.00

DISTRICT JUDGES

FROM THE GENERAL FUND

Operation, two hundred ninety-six thousand one hundred forty-six dollars $296,146.00

COUNTY ATTORNEYS

FROM THE GENERAL FUND

Operation, one hundred twenty-four thousand three hundred seventy-seven dollars $124,377.00

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ADJUTANT GENERAL

FROM THE GENERAL FUND

Operation, three hundred twelve thousand one hundred seventy-six dollars $312,176.00
Capital, twenty-two thousand dollars ..... $ 22,000.00

Section 4. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1962 and ending June 30, 1963.

STATE P. B. X. DIVISION

FROM THE GENERAL FUND

Salary of department head, five thousand four hundred dollars ..... $ 5,400.00
Operation, twenty-nine thousand six hundred twenty-six dollars ..... $ 29,626.00

It is hereby provided that the state highway commission, unemployment compensation commission, fish and game commission, liquor control board, industrial accident board, board of education, superintendent of public instruction, oil and gas conservation commission, public employees' retirement system, executive secretary of the University of Montana, social security division, teachers' retirement system, adjusted compensation division, board of hail insurance, board of examiners for nurses, board of plumbing examiners, livestock commission, joint merit system and state aeronautics commission shall pay their proportionate shares of the cost of operating the P. B. X. division, as determined by the state controller, to the state controller for deposit to the credit of the general fund of the State of Montana.

DISTRICT JUDGES

FROM THE GENERAL FUND

Operation, two hundred ninety-seven thousand six hundred fifty-nine dollars $297,659.00

COUNTY ATTORNEYS

FROM THE GENERAL FUND

Operation, one hundred twenty-four thousand six hundred sixty-eight dollars $124,668.00

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ADJUTANT GENERAL

FROM THE GENERAL FUND

Operation, three hundred thirteen thousand sixty-six dollars $313,066.00
Capital, fourteen thousand six hundred dollars ..... $ 14,600.00

CIVIL DEFENSE AGENCY

FROM THE GENERAL FUND

Salary of director, three thousand three hundred dollars ..... $ 3,300.00
Operation, eighteen thousand four hundred six dollars ..... $ 18,406.00
Capital, three hundred fifty dollars ..... $ 350.00

FROM THE CIVIL DEFENSE FUND

Capital, forty thousand dollars ..... $ 40,000.00

FROM CIVIL DEFENSE FUND U. S. AID (PL 85-606)

Salary of director, three thousand three hundred dollars ..... $ 3,300.00
Operation, eighteen thousand four hundred six dollars ..... $ 18,406.00
Capital, three hundred fifty dollars ..... $ 350.00

STATE PARKS

FROM THE GENERAL FUND

Salary of director, six thousand dollars ..... $ 6,000.00
Operation, sixty-six thousand four hundred fifty dollars ..... $ 66,450.00
Capital, four thousand three hundred eighty-five dollars ..... $ 4,385.00

FROM STATE PARKS FUND

Operation, twenty-eight thousand five hundred fifty dollars ..... $ 28,550.00
Capital, three thousand nine hundred fifty dollars ..... $ 3,950.00

FROM TIBER PARK FUND

Operation, eight hundred dollars ..... $ 800.00

FROM PARKS CONCESSIONAIRES FUND

For payments as per contract, eight thousand five hundred dollars ..... $ 8,500.00

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FROM CANYON FERRY PARK FUND

Operation, five thousand five hundred forty-two dollars ..... $ 5,542.00
Capital, nine hundred fifty-eight dollars ..... $ 958.00

CAPITOL CUSTODIAN

FROM THE GENERAL FUND

Salary of department head, five thousand four hundred dollars ..... $ 5,400.00
Operation, two hundred sixty-one thousand four hundred ten dollars $261,410.00
Capital, two thousand dollars ..... $ 2,000.00

FROM HIGHWAY FUND

Operation, twenty-five thousand dollars ..... $ 25,000.00

TRANSPORTATION OF PRISONERS

FROM THE GENERAL FUND

Expense of transporting prisoners, thirty thousand dollars ..... $ 30,000.00

BOARD OF PARDONS

FROM THE GENERAL FUND

Salary of department head, seven thousand dollars ..... $ 7,000.00
Operation, eighty-one thousand seven hundred two dollars ..... $ 81,702.00
Capital, one hundred sixty dollars ..... $ 160.00

STATE CONTROLLER

FROM THE GENERAL FUND

Salary of controller, seven thousand dollars ..... $ 7,000.00
Operation, *one hundred fourteen thousand eight hundred forty-three dollars* *$114,843.00*
Capital, two hundred twenty dollars ..... $ 220.00

FROM THE HIGHWAY FUND

Operation, twenty-five thousand dollars ..... $ 25,000.00

FROM THE MILLAGE FUND

Operation, fifteen thousand dollars ..... $ 15,000.00

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FROM THE FISH AND GAME FUND

Operation, twelve thousand five hundred dollars .....$ 12,500.00

APPRENTICESHIP COUNCIL

FROM THE GENERAL FUND

Operation, six thousand dollars .....$ 6,000.00

VETERANS' WELFARE *COMMISSION*

FROM THE GENERAL FUND

Salary of director, seven thousand two hundred dollars .....$ 7,200.00
Operation, one hundred eighteen thousand nine hundred fifty-five dollars $118,955.00
Payment of secretarial services to those veterans' organizations maintaining full-time service offices at Fort Harrison, Montana, six thousand dollars .....$ 6,000.00

ADJUSTED COMPENSATION DIVISION

FROM THE VETERANS' COMPENSATION FUND

As much as may be necessary to pay all lawful claims as provided by law.

BOARD OF HEALTH

FROM THE GENERAL FUND

Salary of director, fifteen thousand dollars .....$ 15,000.00
Operation, three hundred thirty-three thousand two hundred dollars $333,200.00
Capital, one thousand eight hundred dollars .....$ 1,800.00

In addition thereto, there is hereby appropriated any money that may be received from the federal government to be used as provided in the grants for the various departments and hereby reappropriate any unexpended state funds.

HISTORICAL SOCIETY

FROM THE GENERAL FUND

Salary of director nine thousand dollars .....$ 9,000.00
Operation, fifty-four thousand eight hundred dollars ..$ 54,800.00
Capital, two hundred dollars .....$ 200.00

FROM THE HISTORICAL SOCIETY FUND

Operation, eighty-three thousand dollars .....$ 83,000.00

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Capital, eleven thousand dollars .....$ 11,000.00

FROM THE RUSSELL PAINTING FUND

As much as may be necessary.

FROM THE MAGAZINE FUND

As much as may be necessary.

LAW LIBRARY

FROM THE GENERAL FUND

Salary of department head, five thousand three hundred dollars .....$ 5,300.00
Operation, three thousand one hundred ninety dollars ..$ 3,190.00

FROM THE LAW LIBRARY FUND

Operation, seven hundred forty dollars .....$ 740.00
Capital, eight thousand eight hundred ten dollars .....$ 8,810.00

Section 5. All appropriations contained herein shall be used for the purposes designated and no other. The definitions given in section 1 of this act govern all appropriations.

Section 6. When an agency has an appropriation from a source other than the general fund, except trust funds the use of which is governed by a specific law, the money from such other sources shall be used, when available, before using general fund appropriations.

Approved March 15, 1961.

HOUSE BILL NO. 456

An Act to Appropriate Money for the Operation and Maintenance of Certain State Institutions for the Period Beginning July 1, 1961 and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In this act, unless otherwise required by the context, the terms "expenditures" and "other expenditures" mean ordinary operating expenses and include salaries, employers' contributions to social security, public employees' retirement system and teachers' retirement system, capital expenditures and repairs and replacement of capital items, but do not include expenditures for construction or furnishing of buildings or purchase of land unless specifically authorized.

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Section 2. An appropriation contained in this act is intended to provide only necessary expenditures for the year for which the appropriation is provided; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. (1) Unless otherwise provided in this act, all moneys received or collected from any source whatsoever by the institutions named in this act shall be deposited in the state treasury and credited to the general fund as provided by section 79-601, Revised Codes of Montana, 1947.

(2) In order to encourage collections, all such moneys are hereby appropriated for the use of the collecting institution, unless otherwise specifically provided in this act.

Section 4. In addition to the amounts specifically appropriated by this act, there is appropriated to each institution all federal moneys, income from land grants and trust funds to which it is entitled, subject to statutory provisions and obligations of outstanding bond issues.

Section 5. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1961, and ending June 30, 1962.

SCHOOL FOR THE DEAF AND BLIND

FROM THE GENERAL FUND

Salary of the superintendent, eight thousand four hundred dollars ..... $ *8,400.00*

Other expenditures, one hundred seventy-eight thousand, eight hundred seventy-five dollars ..... $ *178,875.00*

STATE CHILDREN'S CENTER

FROM THE GENERAL FUND

Salary of the superintendent, seven thousand dollars ..... $ 7,000.00

Other expenditures, three hundred fifty-one thousand fifty-seven dollars ..... $ 351,057.00

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In limitation of the provisions of section 3 of this act, any moneys collected in excess of $20,000.00 annually may not be expended without the approval of the governor.

STATE VOCATIONAL SCHOOL FOR GIRLS

FROM THE GENERAL FUND

Salary of the superintendent, six thousand four hundred dollars	$	6,400.00
Other expenditures, one hundred ninety-five thousand six hundred twenty-nine dollars	$	195,629.00

STATE SOLDIER'S HOME

FROM THE GENERAL FUND

Salary of the commandant, five thousand dollars	$	5,000.00
Other expenditures, sixty-eight thousand five hundred thirteen dollars	$	68,513.00

STATE TRAINING SCHOOL

FROM THE GENERAL FUND

Salary of the superintendent, ten thousand dollars	$	10,000.00
Other expenditures, eight hundred twenty-seven thousand eight hundred fifty-five dollars	$	827,855.00
Remodeling of cafeteria, remodeling of dormitory and furnishing of nursery-type building, thirty-four thousand dollars	$	34,000.00

All moneys collected shall continue to be credited to account No. 048 for the construction of a nursery-type building until the total collections reach the sum of $180,000.00 thereafter all collections are appropriated for the use of the institution as provided in section 3 of this act, except that any moneys collected in excess of $150,000.00 annually may not be expended without the approval of the governor.

STATE TUBERCULOSIS SANITARIUM

FROM THE GENERAL FUND

Salary of the superintendent, twelve thousand dollars	$	12,000.00
Other expenditures, nine hundred forty-two thousand six hundred eighty-nine dollars	$	942,689.00

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Subsection (2) of section 3, and section 4 of this act do not apply to the state tuberculosis sanitarium.

STATE PRISON

FROM THE GENERAL FUND

Salary of the warden, eight thousand four hundred dollars ..... $ 8,400.00

Other expenditures, one million two hundred twenty-eight thousand four hundred seventy-eight dollars .. $ 1,228,478.00

For salaries and expenses, as much thereof as may be necessary to pay all lawful claims, as provided by law.

REGISTRAR OF MOTOR VEHICLES

FROM THE MOTOR VEHICLE RECORDING FUND

To defray expenses borne by the state prison in administering the laws relating to motor vehicle registration.

Expenditures, fifty-three thousand dollars ..... $ 53,000.00

LICENSE PLATE FACTORY

FROM THE MOTOR VEHICLE RECORDING FUND

For expenditures, as much as may be necessary to pay lawful claims in the making of license plates, is hereby appropriated.

BUREAU OF IDENTIFICATION

FROM THE GENERAL FUND

Expenditures, twenty-one thousand nine hundred eighty-two dollars ..... $ 21,982.00

HOME FOR *SENILE MEN AND WOMEN*

FROM THE GENERAL FUND

Salary of superintendent, six thousand dollars ..... $ 6,000.00

Other expenditures, one hundred forty-nine thousand seven hundred ninety-five dollars ..... $ 149,795.00

In limitation of the provisions of section 3 of this act, any moneys collected in excess of $23,000.00 annually may not be expended without the permission of the governor.

STATE HOSPITAL

FROM THE GENERAL FUND

Salary of superintendent, sixteen thousand dollars .. $ 16,000.00

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Other expenditures, two million six hundred one thousand one hundred ninety dollars ..... $ *2,601,190.00*

Fire escapes, remodeling of infirmary, administration building addition and heating equipment for emergencies, one hundred forty-seven thousand dollars ..... $ 147,000.00

FROM THE MULTI-PURPOSE-ACTIVITY BUILDING FUND (NO. 040)

Fire escapes, remodeling of infirmary, administration building addition and heating equipment for emergencies, ninety thousand dollars ..... $ 90,000.00

In limitation of the provisions of section 3 of this act, any moneys collected in excess of $220,000.00 annually may not be expended without the approval of the governor.

MENTAL HYGIENE DIVISION

FROM THE GENERAL FUND

Expenditures, one hundred thirty-five thousand five hundred eighty-seven dollars ..... $ 135,587.00

STATE INDUSTRIAL SCHOOL

FROM THE GENERAL FUND

Salary of the superintendent, seven thousand five hundred dollars ..... $ 7,500.00

Other expenditures, three hundred seventy-six thousand eight hundred forty-six dollars ..... $ 376,846.00

In limitation of the provisions of section 3 of this act, any moneys collected in excess of $37,500.00 annually may not be expended without the approval of the governor.

Section 6. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1962, and ending June 30, 1963.

SCHOOL FOR THE DEAF AND BLIND

FROM THE GENERAL FUND

Salary of the superintendent, eight thousand four hundred dollars ..... $ *8,400.00*

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Other expenditures, one hundred eighty-three thousand, six hundred ninety-three dollars ..... $ *183,693.00*

STATE CHILDREN'S CENTER

FROM THE GENERAL FUND

Salary of the superintendent, seven thousand two hundred dollars ..... $ 7,200.00

Other expenditures, three hundred fifty-three thousand four hundred forty-three dollars ..... $ 353,443.00

In limitations of the provisions of section 3, of this act, any moneys collected in excess of $20,000.00 annually may not be expended without the approval of the governor.

STATE VOCATIONAL SCHOOL FOR GIRLS

FROM THE GENERAL FUND

Salary of the superintendent, six thousand eight hundred dollars ..... $ 6,800.00

Other expenditures, one hundred eighty-three thousand one hundred fifty-eight dollars ..... $ 183,158.00

STATE SOLDIERS' HOME

FROM THE GENERAL FUND

Salary of the commandant, five thousand dollars .... $ 5,000.00

Other expenditures, sixty-eight thousand four hundred sixty-one dollars ..... $ 68,461.00

STATE TRAINING SCHOOL

FROM THE GENERAL FUND

Salary of the superintendent, ten thousand dollars .. $ 10,000.00

Other expenditures, seven hundred thirty-two thousand six hundred ninety dollars ..... $ 732,690.00

In limitation of the provisions of section 3 of this act, any moneys collected in excess of $180,000.00 annually may not be expended without the approval of the governor.

STATE TUBERCULOSIS SANITARIUM

FROM THE GENERAL FUND

Salary of the superintendent, twelve thousand dollars ..... $ 12,000.00

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Other expenditures, nine hundred forty-five thousand four hundred twenty-nine dollars .....$ 945,429.00

Subsection (2) of section 3, and section 4 of this act do not apply to the state tuberculosis sanitarium.

STATE PRISON

FROM THE GENERAL FUND

Salary of the warden, eight thousand four hundred dollars .....$ 8,400.00

Other expenditures, one million one hundred eighty thousand four hundred seventy-three dollars .....$ 1,180,473.00

REGISTRAR OF MOTOR VEHICLES

FROM THE MOTOR VEHICLE RECORDING FUND

To defray expenses borne by the state prison in administering the laws relating to motor vehicle registration.

Expenditures, fifty-three thousand dollars .....$ 53,000.00

For salaries and expenses, as much thereof as may be necessary to pay all lawful claims as provided by law.

LICENSE PLATE FACTORY

FROM THE MOTOR VEHICLE RECORDING FUND

For expenditures, as much as may be necessary to pay lawful claims in the making of license plates, is hereby appropriated.

BUREAU OF IDENTIFICATION

FROM THE GENERAL FUND

Expenditures, twenty-two thousand thirty dollars ..$ 22,030.00

HOME FOR *SENILE MEN AND WOMEN*

FROM THE GENERAL FUND

Salary of the superintendent, six thousand dollars ..$ 6,000.00

Other expenditures, one hundred forty-eight thousand four hundred ninety-four dollars .....$ 148,494.00

In limitation of the provisions of section 3 of this act, any moneys collected in excess of $23,000.00 annually may not be expended without the approval of the governor.

STATE HOSPITAL

FROM THE GENERAL FUND

Salary of superintendent, sixteen thousand dollars ..$ 16,000.00

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Other expenditures, two million six hundred forty-eight thousand, one hundred seventy dollars .....$ 2,648,170.00

In limitation of the provisions of section 3 of this act, any moneys collected in excess of $220,000.00 annually may not be expended without the approval of the governor.

MENTAL HYGIENE DIVISION

FROM THE GENERAL FUND

Expenditures, one hundred thirty-nine thousand six hundred ninety-six dollars .....$ 139,696.00

STATE INDUSTRIAL SCHOOL

FROM THE GENERAL FUND

Salary of the superintendent, eight thousand dollars .....$ 8,000.00

Other expenditures, three hundred seventy-five thousand two hundred fifty-six dollars .....$ 375,256.00

In limitation of section 3 of this act, any moneys collected in excess of $37,500.00 annually may not be expended without the approval of the governor.

Section 7. All appropriations contained herein shall be used for the purposes designated and no other. The definitions given in section 1 of this act govern all appropriations.

Section 8. When institutions have appropriations from funds other than the general fund, excepting trust funds, the use of which is governed by a specific law, the money from such other sources shall be used, when available, before using general fund appropriations.

Approved March 15, 1961.

SUBSTITUTE HOUSE BILL NO. 457

An Act to Appropriate Money for the Operation and Maintenance of Certain State Agencies for the Period Beginning July 1, 1961 and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In this act, unless otherwise required by the context: (1) The term "operation" means all ordinary operating ex-

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penses and includes salaries and employers' contributions to social security, public employees' retirement sytem and teachers' retirement system.

(2) The term "capital," unless otherwise defined, means all articles, fixtures and goods of a permanent nature, including the repair or replacement of capital assets, but does not include the construction of buildings or purchase of land.

Section 2. An appropriation contained in this act is intended to provide only necessary expenditures for the year for which the appropriation is provided; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1961 and ending June 30, 1962.

STATE ENTOMOLOGIST

FROM THE GENERAL FUND

Operation, twenty-eight thousand three hundred sixty-two dollars	$ 28,362.00
Capital, three hundred fifty dollars	$ 350.00

SOIL CONSERVATION COMMISSION

FROM THE GENERAL FUND

Salary of department head, six thousand dollars	$ 6,000.00
Operation, six thousand one hundred sixty-five dollars	$ 6,165.00

STATE ENGINEER

FROM THE GENERAL FUND

Salary of department head, seven thousand two hundred dollars	$ 7,200.00
Operation, one hundred twenty thousand four hundred twenty-two dollars	$ 120,422.00
Columbia compact negotiating commission, seven thousand five hundred dollars	$ 7,500.00

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Operation, Columbia compact commission .....$ *20,500.00*
Capital, two thousand six hundred dollars .....$ 2,600.00

LABOR AND INDUSTRY

FROM THE GENERAL FUND

Salary of department head, six thousand dollars ....$ 6,000.00
Operation, five thousand nine hundred fifty-three dollars .....$ 5,953.00

CO-ORDINATOR OF INDIAN AFFAIRS

FROM THE GENERAL FUND

Salary of department head, one thousand two hundred dollars .....$ 1,200.00
Operation, three thousand eight hundred twenty dollars .....$ 3,820.00
Capital, one hundred sixty-two dollars .....$ 162.00
Governor's interstate Indian council, three hundred dollars .....$ 300.00

HIGHWAY PATROL

FROM THE GENERAL FUND

Salary of department head, seven thouand dollars ..$ 7,000.00
Operation, one million two hundred thirty-one thousand eight hundred eighteen dollars .....$ 1,231,818.00
Capital, one hundred thirty-two thousand one hundred fifty-nine dollars .....$ 132,159.00

In addition to the above appropriations there is appropriated to the Highway Patrol such sum of money as shall be required not exceeding one dollar ($1.00) per operator's or chauffeur's license issued, not exceeding a total sum of one hundred seventy-five thousand dollars ($175,000) for the fiscal year ending June 30, 1962, to defray the cost of administering House Bill No. 342 enacted by the thirty-seventh legislative assembly.

BOARD OF EQUALIZATION

FROM THE GENERAL FUND

Salaries of department heads, twenty-one thousand dollars .....$ 21,000.00
Operation, *three hundred thirty-seven thousand seven hundred ninety-five dollars* .....$ *337,795.00*

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Capital, one thousand eight hundred twenty dollars ..$ 1,820.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, ninety-eight thousand four hundred fifty-five dollars .....$ 98,455.00

FROM THE HIGHWAY FUND

Operation, one hundred one thousand six hundred eight dollars .....$ 101,608.00

LANDS & INVESTMENTS

FROM THE GENERAL FUND

Salary of department head, seven thousand dollars ..$ 7,000.00
Operation, one hundred fifteen thousand four hundred thirty-four dollars .....$ 115,434.00
Capital, nine hundred ninety dollars .....$ 990.00

From the land sale petty cash fund as much as may be necessary to pay all lawful claims, as provided by law.

HIGHWAY COMMISSION

FROM HIGHWAY & HIGHWAY TRUST FUNDS

(Including federal aid contributions to said funds)

Salary of department head, fifteen thousand eight hundred forty dollars .....$ 15,840.00
Operation, seventy-one million, one hundred forty-one thousand one hundred dollars .....$ 71,141,100.00
Capital, one million thirteen thousand dollars .....$ 1,013,000.00

There is hereby appropriated all federal funds that may be made available for highway purposes, but no expenditures in excess of the amounts hereinbefore set forth shall be made without the express authorization of the governor. As applied to the highway commission, the term "operation" shall include all ordinary operating expenses and disbursements for administration, construction, and maintenance of highways, but the performance of such other duties and functions by the highway commission as may be prescribed and imposed by law, including payments to contractors and suppliers, acquisition of lands for construction of highways, payments of salaries and employers' contributions to social security and the public employees' retirement system.

As applied to the highway commission the term "capital" shall include, in addition to other items hereinbefore set forth, buildings, building sites and sand and gravel pits.

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VOCATIONAL REHABILITATION

FROM THE GENERAL FUND

Salary of department head, eight thousand five hundred twenty dollars	$	8,520.00
Operation, ninety-five thousand six hundred ninety-four dollars	$	95,694.00
Capital, one thousand three hundred nine dollars	$	1,309.00

In addition thereto there is hereby appropriated all moneys received from the federal government for vocational rehabilitation.

LIVESTOCK COMMISSION

FROM THE GENERAL FUND

For rodent control, operation, twenty thousand dollars	$	20,000.00

FROM THE BOUNTY FUND

Operation, fifty thousand dollars	$	50,000.00

FROM THE LIVESTOCK COMMISSION FUND

Operation, three hundred ninety-one thousand six hundred eighty-seven dollars	$	391,687.00

FROM THE STOCK ESTRAY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

LIVESTOCK SANITARY BOARD

FROM THE GENERAL FUND

Salary of department head, ten thousand dollars	$	10,000.00
Operation, one hundred seventeen thousand, ninety dollars	$	117,090.00
Meat inspection, *sixty* thousand dollars	$	*60,000.00*
Capital, three thousand dollars	$	3,000.00

FROM THE LIVESTOCK SANITARY BOARD FUND

Operation, one hundred seventy thousand seventy dollars	$	170,070.00
Brucellosis control, twenty thousand dollars	$	20,000.00

For the payment of slaughtered stock as provided by law, such sums as may be available are hereby appropriated.

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MILK CONTROL BOARD

FROM THE MILK CONTROL FUND

Salary of department head, eight thousand dollars	$	8,000.00
Operation, sixty-five thousand four hundred twenty-four dollars	$	65,424.00
Capital, five hundred seventy-six dollars	$	576.00

DEPARTMENT OF AGRICULTURE

FROM THE GENERAL FUND

Salary of department head, seven thousand dollars	$	7,000.00
Operation, *three hundred and two thousand four hundred sixteen dollars*	$	*302,416.00*
Capital, *eleven thousand four hundred eighty-five dollars*	$	*11,485.00*

FROM THE HIGHWAY FUND

Operation, six thousand three hundred dollars	$	6,300.00

FROM THE COMMERCIAL FERTILIZER FUND

Operation, ten thousand thirty-four dollars	$	10,034.00

FROM WEIGHTS & MEASURES REVOLVING FUND

Operation, twelve thousand dollars	$	12,000.00

FROM GRAIN SERVICES REVOLVING FUND

Operation, one hundred eighty-two thousand three hundred forty-nine dollars	$	182,349.00

FROM U. S. MARKETING SERVICE FUND

Operation, eleven thousand eight hundred dollars	$	11,800.00

FROM COMMERCIAL FEED FUND

Operation, sixteen thousand seven hundred fifty-nine dollars	$	16,759.00

FROM DEPARTMENT REVOLVING FUND

Operation, seven thousand one hundred dollars	$	7,100.00

STATE EXAMINER

FROM THE GENERAL FUND

Salary of department head, seven thousand dollars	$	7,000.00

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Operation, two hundred fourteen thousand nine hundred nineteen dollars	$	214,919.00
Capital, four hundred fifty-six dollars	$	456.00

STATE BOARD OF EXAMINERS

FROM THE GENERAL FUND

Salary of department head, eight thousand dollars	$	8,000.00
Operation, forty-seven thousand five hundred thirty-eight dollars	$	47,538.00
Capital, eight hundred seventy-five dollars	$	875.00
Council of state governments, two thousand five hundred dollars	$	2,500.00

BOARD OF HAIL INSURANCE

FROM THE HAIL INSURANCE ADMINISTRATION FUND

Salary of department head, *six thousand six hundred dollars*	$	*6,600.00*
Operation, twenty-eight thousand thirty-four dollars	$	28,034.00
Capital, one hundred fifty dollars	$	150.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all lawful claims.

STATE FORESTER

FROM THE GENERAL FUND

Operation, one hundred sixty-nine thousand nine hundred thirty-five dollars	$	169,935.00
Capital, eight thousand eight hundred dollars	$	8,800.00

FROM FIRE PROTECTION FUND

Operation, four thousand fifty-two dollars	$	4,052.00
Capital, two thousand seven hundred thirty-five dollars	$	2,735.00
Disbursement to fire protection organization, sixty-four thousand two hundred thirteen dollars	$	64,213.00

FROM CLARKE-McNARY FUNDS, U. S. AID

Fire suppression, state & private lands, thirty-five thousand dollars	$	35,000.00
Disbursement to fire protection agencies, eighty-two thousand eight hundred dollars	$	82,800.00

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FROM BRUSH & SLASH DISPOSAL FUNDS

Operation, one hundred fifty-one thousand nine hundred seventeen dollars	$	151,917.00
Capital, ten thousand eight hundred ninety dollars	$	10,890.00
Refunds to operators and land owners, thirty-five thousand dollars	$	35,000.00

FROM TIMBER STAND IMPROVEMENT FUNDS

Operation, forty-one thousand forty-five dollars	$	41,045.00
Equipment, three thousand seven hundred twenty-six dollars	$	3,726.00

FROM COOPERATIVE FOREST MANAGEMENT FUNDS

Operation, seventeen thousand four hundred seventeen dollars	$	17,417.00
Equipment, one thousand two hundred thirty-five dollars	$	1,235.00

FROM THE GENERAL FUND

Operation, fifty-six thousand one hundred fifty-three dollars	$	56,153.00
Capital, ten thousand four hundred eight dollars	$	10,408.00

Section 4. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1962, and ending June 30, 1963.

STATE ENTOMOLOGIST

FROM THE GENERAL FUND

Operation, twenty-eight thousand three hundred ninety-nine dollars	$	28,399.00
Capital, three hundred eighty-five dollars	$	385.00

SOIL CONSERVATION COMMISSION

FROM THE GENERAL FUND

Salary of department head, six thousand dollars	$	6,000.00
Operation, six thousand two hundred thirteen dollars	$	6,213.00

STATE ENGINEER

FROM THE GENERAL FUND

Salary of department head, seven thousand two hundred dollars	$	7,200.00

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Operation, one hundred twenty thousand eight hundred twenty-seven dollars	$	120,827.00
Columbia compact negotiating commission, seven thousand five hundred dollars	$	7,500.00
Operation, Columbia compact commission, twenty thousand five hundred dollars	$	*20,500.00*
Capital, two thousand one hundred dollars	$	2,100.00

LABOR AND INDUSTRY

FROM THE GENERAL FUND

Salary of department head, six thousand dollars	$	6,000.00
Operation, five thousand nine hundred fifty-three dollars	$	5,953.00

CO-ORDINATOR OF INDIAN AFFAIRS

FROM THE GENERAL FUND

Salary of department head, one thousand two hundred dollars	$	1,200.00
Operation, four thousand eighty-five dollars	$	4,085.00

HIGHWAY PATROL

FROM THE GENERAL FUND

Salary of department head, seven thousand dollars	$	7,000.00
Operation, one million two hundred thirty-four thousand two hundred seventy-one dollars	$	1,234,271.00
Capital, one hundred thousand dollars	$	100,000.00

In addition to the above appropriations there is appropriated to the highway patrol such sum of money as shall be required not exceeding one dollar ($1.00) per operator's or chauffeur's license issued, not exceeding a total sum of one hundred seventy-five thousand dollars ($175,000) for the fiscal year ending June 30, 1963, to defray the cost of administering House Bill No. 342 enacted by the thirty-seventh legislative assembly.

BOARD OF EQUALIZATION

FROM THE GENERAL FUND

Salaries of department heads, twenty-one thousand dollars	$	21,000.00
Operation, *three hundred forty-two thousand four hundred fifty-four dollars*	$	*342,454.00*

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Capital, one thousand six hundred dollars .....$ 1,600.00

So much as is required to carry out the provisions of House Bill 442 as enacted by the thirty-seventh legislative assembly is hereby appropriated from the general fund, twenty thousand dollars .....$ 20,000.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, ninety-eight thousand five hundred sixty-one dollars .....$ 98,561.00

FROM THE HIGHWAY FUND

Operation, one hundred thousand two hundred seventy-nine dollars .....$ 100,279.00

LANDS & INVESTMENTS

FROM THE GENERAL FUND

Salary of department head, seven thousand dollars ..$ 7,000.00

Operation, one hundred fifteen thousand six hundred thirty-four dollars .....$ 115,634.00

Capital, six hundred thirty-one dollars .....$ 631.00

From the land sale petty cash fund as much as may be necessary to pay all lawful claims, as provided by law.

HIGHWAY COMMISSION

FROM HIGHWAY AND HIGHWAY TRUST FUNDS

(Including federal aid contributions to said funds)

Salary of department head, fifteen thousand eight hundred forty dollars .....$ 15,840.00

Operation, sixty-nine million three hundred forty-seven thousand forty dollars .....$ 69,347,040.00

Capital, one million thirty-thousand three hundred dollars .....$ 1,030,300.00

There is hereby appropriated all federal funds that may be made available for highway purposes, but no expenditures in excess of the amounts hereinbefore set forth shall be made without the express authorization of the governor.

As applied to the highway commission, the term "operation" shall include all ordinary operating expenses and disbursements for the administration, construction, and maintenance of highways, and the performance of such other duties and functions by the highway commission as may be prescribed and imposed by law, including payments to contractors and suppliers, acquisition of lands for con-

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struction of highways, payments of salaries and employers' contributions to social security and the public employees' retirement system. As applied to the highway commission the term "capital" shall include, in addition to other items hereinbefore set forth, buildings, building sites and sand and gravel pits.

VOCATIONAL REHABILITATION

FROM THE GENERAL FUND

Salary of department head, eight thousand five hundred twenty dollars	$	8,520.00
Operation, ninety-five thousand nine hundred ninety-one dollars	$	95,991.00
Capital, one thousand thirty dollars	$	1,030.00

In addition thereto there is hereby appropriated all moneys received from the federal government for vocational rehabilitation.

LIVESTOCK COMMISSION

FROM THE GENERAL FUND

For rodent control, operation, twenty thousand dollars	$	20,000.00

FROM THE BOUNTY FUND

Operation, fifty thousand dollars	$	50,000.00

FROM THE LIVESTOCK COMMISSION FUND

Operation, three hundred eighty-seven thousand eight hundred seventy-one dollars	$	387,871.00

FROM THE STOCK ESTRAY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

LIVESTOCK SANITARY BOARD

FROM THE GENERAL FUND

Salary of department head, ten thousand dollars	$	10,000.00
Operation, one hundred seventeen thousand two hundred forty-one dollars	$	117,241.00
Meat inspection, *sixty thousand dollars*	$	*60,000.00*
Capital, three thousand dollars	$	3,000.00

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FROM THE LIVESTOCK SANITARY BOARD FUND

Operation, one hundred seventy thousand seventy dollars ..... $ 170,070.00

Brucellosis control, twenty thousand dollars ..... $ 20,000.00

For the payment of slaughtered stock as provided by law, such sums as may be available are hereby appropriated.

MILK CONTROL BOARD

FROM THE MILK CONTROL FUND

Salary of department head, eight thousand dollars .. $ 8,000.00

Operation, sixty-five thousand four hundred twenty-four dollars ..... $ 65,424.00

DEPARTMENT OF AGRICULTURE

FROM THE GENERAL FUND

Salary of department head, seven thousand dollars .. $ 7,000.00

Operation, three hundred ten thousand one hundred forty-six dollars ..... $ *310,146.00*

Capital, one thousand dollars ..... $ *1,000.00*

FROM THE HIGHWAY FUND

Operation, six thousand three hundred dollars ..... $ 6,300.00

FROM THE COMMERCIAL FERTILIZER FUND

Operation, ten thousand three hundred three dollars ..... $ 10,303.00

FROM WEIGHTS & MEASURES REVOLVING FUND

Operation, twelve thousand dollars ..... $ 12,000.00

FROM GRAIN SERVICES REVOLVING FUND

Operation, one hundred eighty-four thousand three hundred sixty-nine dollars ..... $ 184,369.00

FROM U. S. MARKETING SERVICE FUND

Operation, eleven thousand eight hundred dollars .. $ 11,800.00

FROM COMMERCIAL FEED FUND

Operation, seventeen thousand eight hundred sixteen dollars ..... $ 17,816.00

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FROM DEPARTMENT REVOLVING FUND

Operation, seven thousand one hundred dollars .....$ 7,100.00

STATE EXAMINER

FROM THE GENERAL FUND

Salary of department head, seven thousand dollars ..$ 7,000.00
Operation, two hundred nineteen thousand eight hundred dollars .....$ 219,800.00
Capital, one hundred fifty dollars .....$ 150.00

STATE BOARD OF EXAMINERS

FROM THE GENERAL FUND

Salary of department head, eight thousand dollars ..$ 8,000.00
Operation, forty-seven thousand six hundred thirty-five dollars .....$ 47,635.00
Council of state governments, two thousand five hundred dollars .....$ 2,500.00

BOARD OF HAIL INSURANCE

FROM THE HAIL INSURANCE ADMINISTRATION FUND

Salary of department head, *six thousand six hundred dollars* .....$ *6,600.00*
Operation, twenty-eight thousand fifty-seven dollars .....$ 28,057.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all losses and lawful claims, as provided by law.

STATE FORESTER

FROM THE GENERAL FUND

Operation, two hundred sixteen thousand two hundred ninety-two dollars .....$ 216,292.00
Capital, four thousand two hundred five dollars ....$ 4,205.00

FROM FIRE PROTECTION FUND

Operation, six thousand seven hundred eighty-seven dollars .....$ 6,787.00
Disbursement to fire protection organization, sixty-four thousand two hundred thirteen dollars .....$ 64,213.00

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FROM CLARK-McNARY FUND, U. S. AID

Fire suppression, state and private lands, thirty-five thousand dollars ..... $ 35,000.00

Disbursement to fire protection agencies, eighty-two thousand eight hundred dollars ..... $ 82,800.00

FROM BRUSH & SLASH DISPOSAL FUND

Operation, one hundred fifty-seven thousand nine hundred eighty-six dollars ..... $ 157,986.00

Capital, seven thousand five hundred ninety dollars ..... $ 7,590.00

Refunds to operators and landowners, thirty-five thousand dollars ..... $ 35,000.00

FROM TIMBER STAND IMPROVEMENT FUND

Operation, forty-three thousand three hundred fifteen dollars ..... $ 43,315.00

FROM COOPERATIVE FOREST MANAGEMENT FUNDS

Operation, twenty-one thousand two hundred seventy-six dollars ..... $ 21,276.00

Section 5. All appropriations contained herein shall be used for the purposes designated and no other. The definitions given in section 1 of this act govern all appropriations.

Section 6. When an agency has an appropriation from a source other than the general fund, except trust funds the use of which is governed by a specific law, the money from such other sources shall be used, when available, before using general fund appropriations.

Approved March 16, 1961.

HOUSE BILL NO. 458

An Act to Appropriate Money for the Operation and Maintenance and for Other Purposes Designated Herein for the Several Units of the University of Montana, Known as Montana State University, Montana State College, Experiment Station and Substations, Extension Service, Montana School of Mines, Western Montana College of Education at Dillon, Eastern Montana College of Education at Billings, and Northern Montana College at Havre, the Office of the Executive Secretary, and for Stu-

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dent Fare Refunds for the Period Beginning July 1, 1961, and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In this act, unless otherwise required by the context, the term "expenditures" means ordinary operating expenses and includes salaries, employers' contributions to social security, public employees' retirement system and teachers' retirement system, capital expenditures, and repairs and replacement of capital items, but does not include expenditures for construction or furnishing of buildings or purchase of land unless specifically authorized.

Section 2. An appropriation contained in this act is intended to provide only necessary expenditures for the year for which the appropriation is provided; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. In addition to the amounts specifically appropriated by this act, there is appropriated to each institution all federal moneys, income from land grants and trust funds to which it is entitled, subject to statutory provisions and obligations of outstanding bond issues.

Section 4. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1961, and ending June 30, 1962.

MONTANA STATE UNIVERSITY

FROM THE GENERAL FUND

Expenditures, one million nine hundred ninety-six thousand seven hundred ninety-eight dollars	$ 1,996,798.00
Forestry experiment station, forty-three thousand dollars	$ 43,000.00
Bureau of business and economic research, twenty-five thousand dollars	$ 25,000.00
For expenditures, in lieu of fees and collections, seven hundred three thousand three hundred twenty dollars	$ 703,320.00

provided, however, that no claims shall be paid from this appropriation that exceed, in the aggregate, the amount of the fees and

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collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $703,320.00, is hereby also appropriated for such purpose.

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, one million five hundred four thousand one hundred eighty-six dollars .....$ 1,504,186.00

FROM THE FORESTRY EXPERIMENT STATION FUND

Forestry experiment station, forty-six thousand dollars .....$ 46,000.00

MONTANA STATE COLLEGE

FROM THE GENERAL FUND

Expenditures, *one million nine hundred eighty-five thousand five hundred forty-one dollars* .....$ *1,985,541.00*

Engineering experiment station, fifty-one thousand dollars .....$ 51,000.00

For expenditures in lieu of fees and collections, *six hundred ninety-six thousand, nine hundred twenty-five dollars* .....$ *696,925.00*

provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such *$696,925.00,* is hereby also appropriated for such purpose.

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, one million five hundred twenty-nine thousand three hundred twenty-five dollars .....$ 1,529,325.00

AGRICULTURAL EXTENSION SERVICE
OF MONTANA STATE COLLEGE

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for expenditures, in lieu of fees and collections, ten thousand dollars, $10,000.00 provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal

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year, but the total of such fees and collections so deposited, in excess of such $10,000.00 is hereby also appropriated for such purpose.

Expenditures, two hundred fifty-four thousand four hundred thirty-seven dollars ..... $ *254,437.00*

MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE GENERAL FUND

Expenditures, four hundred fifty-seven thousand forty-five dollars ..... $ *457,045.00*

BRANCH STATIONS OF THE MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE GENERAL FUND

U. S. range livestock experiment station, one dollar ..... $ 1.00

Montana wool laboratory, twenty-six thousand three hundred dollars ..... $ 26,300.00

Montana grain inspection laboratory, twenty-one thousand dollars ..... $ 21,000.00

Central Montana branch station, twenty-five thousand dollars ..... $ 25,000.00

Eastern branch station, thirty-five thousand dollars ..... $ 35,000.00

Huntley branch station, thirty-five thousand dollars ..... $ 35,000.00

North Montana branch station, fifty-four thousand dollars ..... $ 54,000.00

Northwestern Montana branch station, thirty-one thousand three hundred dollars ..... $ 31,300.00

Western Montana branch station, *eleven thousand* dollars ..... $ *11,000.00*

In addition to the above appropriations, all moneys collected by the several branches and substations shall be set aside, each in a special fund, and are hereby appropriated for the use of the collecting branch or substation.

WESTERN MONTANA COLLEGE

FROM THE GENERAL FUND

Expenditures, one hundred ninety-seven thousand six hundred twenty-seven dollars ..... $ 197,627.00

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For expenditures, in lieu of fees and collections, eighty thousand nine hundred thirty dollars .....$ 80,930.00
provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $80,930.00, is hereby also appropriated for such purpose.

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, one hundred fifty-three thousand one hundred twenty dollars .....$ 153,120.00

NORTHERN MONTANA COLLEGE

FROM THE GENERAL FUND

Expenditures, *two hundred thirty-two thousand five hundred sixty-four dollars* .....$ *232,564.00*

For expenditures, in lieu of fees and collections, one hundred twenty thousand four hundred sixty-five dollars .....$ 120,465.00
provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $120,465.00, is hereby also appropriated for such purpose.

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, two hundred seventy-two thousand seven hundred forty-three dollars .....$ 272,743.00

MONTANA SCHOOL OF MINES

FROM THE GENERAL FUND

Expenditures, two hundred twenty-eight thousand, three hundred sixty-six dollars .....$ 228,366.00

Bureau of Mines, one hundred six thousand seven hundred seventy-five dollars .....$ 106,775.00

For expenditures, in lieu of fees and collections fifty-eight thousand eight hundred dollars .....$ 58,800.00
provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees

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and collections so deposited, in excess of such $58,800.00, is hereby also appropriated for such purpose.

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, one hundred fifty-eight thousand nine hundred sixty-seven dollars .....$ 158,967.00

EASTERN MONTANA COLLEGE OF EDUCATION

FROM THE GENERAL FUND

Expenditures, five hundred nineteen thousand seven hundred eighty-four dollars .....$ 519,784.00

For expenditures, in lieu of fees and collections, one hundred eighty-three thousand seven hundred twenty-four dollars .....$ 183,724.00

provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $183,724.00, is hereby also appropriated for such purpose.

For cerebral palsy school, twenty-two thousand five hundred dollars .....$ 22,500.00

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, four hundred thirty-three thousand three hundred twenty dollars .....$ 433,320.00

OFFICE OF EXECUTIVE SECRETARY OF THE UNIVERSITY OF MONTANA

FROM THE GENERAL FUND

Expenditures, fifty-four thousand two hundred twenty-eight dollars .....$ 54,228.00

STUDENT TRAVEL REFUNDS

FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students attending the University of Montana, two thousand dollars .....$ 2,000.00

Section 5. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated pur-

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poses for the period beginning July 1, 1962, and ending June 30, 1963.

MONTANA STATE UNIVERSITY

FROM THE GENERAL FUND

Expenditures, two million one hundred twenty-three thousand nine hundred sixty-eight dollars .....$ 2,123,968.00

Forestry experiment station, forty-three thousand dollars .....$ 43,000.00

Bureau of business and economic research, twenty-five thousand dollars .....$ 25,000.00

For expenditures, in lieu of fees and collections, seven hundred twenty-four thousand one hundred eighty dollars .....$ 724,180.00

provided, however, that no claims shall be paid from this appropriation that exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $724,180.00 is hereby also appropriated for such purpose.

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, one million five hundred twenty-five thousand four hundred thirty-eight dollars .....$ 1,525,438.00

FROM THE FORESTRY EXPERIMENT STATION FUND

Forestry experiment station, forty-six thousand dollars .....$ 46,000.00

MONTANA STATE COLLEGE

FROM THE GENERAL FUND

Expenditures, *two million one hundred twenty-one thousand, eight hundred seventy-nine dollars* .....$ *2,121,879.00*

Engineering experiment station, fifty-one thousand dollars .....$ 51,000.00

For expenditures in lieu of fees and collections, *seven hundred twenty-four thousand six hundred dollars* .....$ *724,600.00*

provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees

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and collections so deposited, in excess of such *$724,600.00,* is hereby also appropriated for such purpose.

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, one million five hundred nineteen thousand eight hundred eighty-two dollars ..... $ 1,519,882.00

AGRICULTURAL EXTENSION SERVICE OF MONTANA STATE COLLEGE

FROM THE GENERAL FUND

In addition to the above appropriation, there is hereby appropriated from the general fund for expenditures, in lieu of fees and collections, ten thousand dollars, $10,000.00, provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $10,000.00 is hereby also appropriated for such purpose.

Expenditures, *two hundred fifty-six thousand eighteen dollars* ..... $ *256,018.00*

MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE GENERAL FUND

Expenditures, *four hundred thirty-nine thousand five hundred sixty-four dollars* ..... $ *439,564.00*

BRANCH STATIONS OF THE MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE GENERAL FUND

U. S. range livestock experiment station, one dollar ..... $ 1.00

Montana wool laboratory, twenty-six thousand three hundred dollars ..... $ 26,300.00

Montana grain inspection laboratory, twenty-one thousand dollars ..... $ 21,000.00

Central Montana branch station, twenty-five thousand dollars ..... $ 25,000.00

Eastern branch station, thirty-five thousand dollars ..... $ 35,000.00

Huntley branch station, thirty-five thousand dollars ..... $ 35,000.00

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North Montana branch station, fifty-four thousand dollars ..... $ 54,000.00

Northwestern Montana branch station, thirty-two thousand ten dollars ..... $ 32,010.00

Western Montana branch, *eleven thousand dollars* .. $ *11,000.00*

In addition to the above appropriations, all moneys collected by the several branches and substations shall be set aside, each in a special fund, and are hereby appropriated for the use of the collecting branch or substation.

WESTERN MONTANA COLLEGE

FROM THE GENERAL FUND

Expenditures, two hundred one thousand sixty dollars ..... $ 201,060.00

For expenditures, in lieu of fees and collections, eighty thousand nine hundred thirty dollars ..... $ 80,930.00 provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $80,930.00, is hereby also appropriated for such purpose.

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, one hundred forty-nine thousand seven hundred eleven dollars ..... $ 149,711.00

NORTHERN MONTANA COLLEGE

FROM THE GENERAL FUND

Expenditures, *two hundred forty-seven thousand six hundred thirty dollars* ..... $ *247,630.00*

For expenditures, in lieu of fees and collections, one hundred twenty-five thousand one hundred four dollars ..... $ 125,104.00 provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $125,104.00 is hereby also appropriated for such purpose.

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FROM THE UNIVERSITY MILLAGE FUND

Expenditures, two hundred seventy-three thousand two hundred forty-five dollars ..... $ 273,245.00

MONTANA SCHOOL OF MINES

FROM THE GENERAL FUND

Expenditures, two hundred twenty-three thousand eight hundred seventy-three dollars ..... $ 223,873.00

Bureau of Mines, one hundred six thousand four hundred fifty-five dollars ..... $ 106,455.00

For expenditures, in lieu of fees and collections, sixty thousand three hundred dollars ..... $ 60,300.00

provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $60,300.00, is hereby also appropriated for such purpose.

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, one hundred sixty-two thousand one hundred sixty dollars ..... $ 162,160.00

EASTERN MONTANA COLLEGE OF EDUCATION

FROM THE GENERAL FUND

Expenditures, six hundred one thousand four hundred fourteen dollars ..... $ 601,414.00

For expenditures, in lieu of fees and collections, one hundred eighty-seven thousand nine hundred forty dollars ..... $ 187,940.00

provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $187,940.00, is hereby also appropriated for such purpose.

For cerebral palsy school, twenty-two thousand five hundred dollars ..... $ 22,500.00

FROM THE UNIVERSITY MILLAGE FUND

Expenditures, four hundred sixty-nine thousand two hundred twenty-five dollars ..... $ 469,225.00

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OFFICE OF EXECUTIVE SECRETARY OF THE UNIVERSITY OF MONTANA

FROM THE GENERAL FUND

Expenditures, fifty-five thousand one hundred twenty-five dollars ..... $ 55,125.00

STUDENT TRAVEL REFUNDS

FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students attending the University of Montana, two thousand dollars ..... $ 2,000.00

Section 6. All appropriations contained herein shall be used for the purposes designated and no other. The definitions given in section 1 of this act govern all appropriations.

Section 7. When institutions have appropriations from funds other than the general fund, excepting trust funds, the use of which is governed by a specific law, the money from such other sources shall be used, when available, before using general fund appropriations.

Section 8. The appropriation for each unit of the University of Montana is based upon predicted enrollment and a cost per student basis as follows:

	1961		1962	
	Enrollment	Cost	Enrollment	Cost
M.S.U.	3944	$1,066.00	4097	$1,066.00
M.S.C	4076	$1,066.00	4221	$1,066.00
E.M.C.E.	1481	$ 784.00	1631	$ 784.00
W.M.C.E	531	$ 814.00	531	$ 814.00
M.S.M.	340	$1,425.00	350	$1,425.00
N.M.C	750	$ 841.00	750	$ 841.00

IN THE EVENT THE ENROLLMENT OF ANY UNIT OF THE University of Montana falls below the predicted enrollment set forth in the schedule above, the appropriation for such unit for such year shall be reduced in an amount equal to the difference between the predicted enrollment and the actual enrollment multiplied by the cost basis per student for such unit and the amount so computed shall revert to the general fund. For the purpose of making the computation hereinabove provided, actual enrollment shall be defined to mean and does mean the number of students actually in attendance as of November 1st in the years 1961 and 1962. The state board of education, ex-officio regents of the University of Montana

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and state controller shall enforce compliance with these provisions taking into account in each of the years 1961 and 1962 the ratio of part time students (those carrying less than seven credit hours) to full time students compared with such ratio as of November 1, 1960.

Approved March 15, 1961.

HOUSE BILL NO. 459

An Act to Appropriate Money for the Operation and Maintenance of the State Water Conservation Board, the State Planning Board and the Fish and Game Commission for the Period Beginning July 1, 1961 and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In this act, unless otherwise required by the context:

(1) The term "operation" means all ordinary operating expenses and includes repairs and maintenance, salaries and employers' contributions to social security, public employees' retirement system and teachers' retirement system.

(2) The term "capital," unless otherwise defined, means all articles, fixtures and goods of a permanent nature, including the replacement of capital assets, but does not include the construction of buildings or purchase of land.

Section 2. An appropriation contained in this act is intended to provide only necessary expenditures for the year for which the appropriation is provided; however, in cases of necessity, an appropriation not expended during the first ficsal year may be expended during the second fiscal year. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1961 and ending June 30, 1962.

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STATE WATER CONSERVATION BOARD

FROM THE GENERAL FUND

Salary of department head, chief engineer, eight thousand seven hundred dollars	$ 8,700.00
Capital, four thousand four hundred sixty dollars ..	$ 4,460.00
Operation, one hundred sixty-one thousand eight hundred forty dollars	$ 161,840.00

FROM WATER CONSERVATION REVOLVING FUND

Operation, two hundred seventy-five thousand dollars	$ 275,000.00

STATE PLANNING BOARD

FROM THE GENERAL FUND

Operation, forty-six thousand dollars	$ 46,000.00

FISH AND GAME COMMISSION

FROM THE FISH AND GAME FUND

For land acquisition, one hundred fifty-two thousand eight hundred three dollars	$ 152,803.00

For purposes other than land acquisition, as much as may be necessary to pay all lawful claims as prescribed by law.

In addition thereto, there is hereby appropriated for purposes other than land acquisition any moneys that may be received from the federal government, to be used as provided in the grants.

Section 4. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1962 and ending June 30, 1963.

STATE WATER CONSERVATION BOARD

FROM THE GENERAL FUND

Salary of department head, chief engineer, eight thousand seven hundred dollars	$ 8,700.00
Capital, four thousand four hundred sixty dollars ..	$ 4,460.00
Operation, one hundred sixty-one thousand eight hundred forty dollars	$ 161,840.00

FROM WATER CONSERVATION REVOLVING FUND

Operation, two hundred seventy-five thousand dollars	$ 275,000.00

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STATE PLANNING BOARD

FROM THE GENERAL FUND

Operation, forty-six thousand dollars .....$ 46,000.00

FISH AND GAME COMMISSION

FROM THE FISH AND GAME FUND

For land acquisition, one hundred twenty-one thousand eight hundred three dollars .....$ 121,803.00

For purposes other than land acquisition, as much as may be necessary to pay all lawful claims as prescribed by law.

In addition thereto, there is hereby appropriated for purposes other than land acquisition any moneys that may be received from the federal government, to be used as provided in the grants.

Section 5. All appropriations contained herein shall be used for the purposes designated and no other. The definitions given in section 1 of this act govern all appropriations.

Section 6. When an agency has an appropriation from a source other than the general fund, except trust funds the use of which is governed by a specific law, the money from such other sources shall be used, when available, before using general fund appropriations.

Approved March 14, 1961.

HOUSE BILL NO. 460

An Act to Appropriate Money for the Payment of Insurance Premiums for Insurance on State Property Out of Certain Funds Designated Herein for the Period Beginning July 1, 1961, and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following sums or so much thereof as may be found necessary are appropriated out of any monies in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the payment of insurance premiums on fire insurance on state properties during the term from July 1, 1961, to and including June 30, 1962:

FROM THE GENERAL FUND

As much as may be necessary for premiums on

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insurance on institutions or departments applicable thereto, one hundred ten thousand dollars .....$ 110,000.00

FROM THE MILLAGE FUND

As much as may be necessary for premiums on insurance on buildings or institutions for the greater university of Montana, one hundred twenty-five thousand dollars .....$ 125,000.00

FROM THE HIGHWAY FUND

As much as may be necessary for premiums on insurance for the highway department, thirty-five thousand dollars .....$ 35,000.00

FROM THE FISH AND GAME FUND

As much as may be necessary for premiums on insurance for the fish and game department, five thousand five hundred dollars .....$ 5,500.00

FROM THE MOTOR VEHICLE RECORDING FUND

As much as may be necessary for premiums on insurance for the motor vehicle department, two hundred dollars .....$ 200.00

Section 2. The following sums or so much thereof as may be found necessary are appropriated out of any monies in the state treasury and from special funds enumerated herein, not otherwise appropriated, for the payment of insurance premiums on fire insurance on state properties during the term from July 1, 1962, to June 30, 1963:

FROM THE GENERAL FUND

As much as may be necessary for premiums on insurance on institutions or departments applicable thereto, one hundred twelve thousand dollars .....$ 112,000.00

FROM THE MILLAGE FUND

As much as may be necessary for premiums on insurance on buildings or institutions for the greater university of Montana, one hundred twenty-five thousand dollars .....$ 125,000.00

FROM THE HIGHWAY FUND

As much as may be necessary for premiums on in-

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surance for the highway department, thirty-five thousand dollars ..... $ 35,000.00

FROM THE FISH AND GAME FUND

As much as may be necessary for premiums on insurance for the fish and game department, five thousand five hundred dollars ..... $ 5,500.00

FROM THE MOTOR VEHICLE RECORDING FUND

As much as may be necessary for premiums on insurance for the motor vehicle department, two hundred dollars.... ..... $ 200.00

Approved March 14, 1961.

HOUSE BILL NO. 461

An Act to Appropriate Money for the Operation and Maintenance of Certain State Agencies for the Period Beginning July 1, 1961 and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In this act, unless otherwise required by the context:

(1) The term "operation" means all ordinary operating expenses and includes repairs, salaries and employers' contributions to social security, public employees' retirement system and teachers' retirement system.

(2) The term "capital," unless otherwise defined, means all articles, fixtures and goods of a permanent nature, but does not include the construction of buildings or purchase of land.

Section 2. An appropriation contained in this act is intended to provide only necessary expenditures for the year for which the appropriation is provided; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

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Section 3. In addition to the amounts specifically appropriated by this act, there is appropriated to each agency all federal moneys and trust funds to which it is entitled, subject to statutory provisions.

Section 4. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1961 and ending June 30, 1962.

GOVERNOR'S OFFICE

FROM THE GENERAL FUND

Operation, forty-two thousand nine hundred forty-five dollars ..... $ 42,945.00

GOVERNOR'S MANSION

FROM THE GENERAL FUND

Operation, ten thousand one hundred twenty-two dollars ..... $ 10,122.00
Capital, two hundred fifty dollars ..... $ 250.00

EXTRADITION OF PRISONERS

FROM THE GENERAL FUND

Operation, thirty thousand dollars ..... $ 30,000.00

OFFICE OF DIRECTOR OF BUDGET

FROM THE GENERAL FUND

Operation, twenty-nine thousand twenty-nine dollars ..... $ 29,029.00
Capital, three hundred forty dollars ..... $ 340.00

SECRETARY OF STATE

FROM THE GENERAL FUND

Operation, eighty thousand five hundred ninety-seven dollars ..... $ 80,597.00
Capital, two thousand three hundred forty-one dollars ..... $ 2,341.00
Printing of election laws, fifteen thousand dollars .. $ 15,000.00

ATTORNEY GENERAL

FROM THE GENERAL FUND

Operation, ninety-nine thousand five hundred fifty-seven dollars ..... $ 99,557.00

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Capital, three thousand three hundred sixty dollars ..... $ 3,360.00

FROM THE ESCHEATED ESTATES FUND

Operation, eleven thousand two hundred fifty-seven dollars ..... $ 11,257.00

There is appropriated from the escheated estates fund for the period beginning July 1, 1961 and ending July 1, 1963, the sum of fifteen thousand dollars ($15,000.00) and no more or so much of that amount that may be needed to enforce the provisions of chapter 170, laws of 1953, Montana.

STATE TREASURER

FROM THE GENERAL FUND

Operation, thirty-nine thousand four hundred sixty-seven dollars ..... $ 39,467.00
Capital, five hundred dollars ..... $ 500.00

STATE AUDITOR
AUDITOR'S DIVISION

FROM THE GENERAL FUND

Operation, forty-eight thousand nine hundred fifty dollars ..... $ 48,950.00
Capital, seven thousand seventy dollars ..... $ 7,070.00

FROM THE HIGHWAY FUND

Operation, thirteen thousand dollars ..... $ 13,000.00

FROM THE INCOME TAX WITHHOLDING FUND

Operation, ten thousand dollars ..... $ 10,000.00

INSURANCE DEPARTMENT

FROM THE GENERAL FUND

Operation, forty-nine thousand one hundred eighty-four dollars ..... $ *49,184.00*
Capital, nine hundred five dollars ..... $ 905.00
Printing of insurance code, three thousand sixteen dollars ..... $ 3,016.00

In distributing copies of the insurance code, the commissioner of insurance shall charge an amount equal to or greater than the cost of each copy. Moneys collected as such charges shall be deposited in the general fund.

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INSURANCE RATING

FROM THE GENERAL FUND

Operation, seven thousand five hundred dollars ....$ 7,500.00

INVESTMENT COMMISSIONER

FROM THE GENERAL FUND

Operation, thirteen thousand dollars .....$ 13,000.00

FIRE MARSHAL DIVISION

FROM THE GENERAL FUND

Operation, fifteen thousand nine hundred dollars ..$ 15,900.00
Capital, one thousand five hundred dollars .....$ 1,500.00

FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in section 11-1919 of the Revised Codes of Montana, 1947, an appropriation sufficient to meet the requirements as provided by law.

SUPREME COURT

FROM THE GENERAL FUND

Operation, one hundred eighteen thousand four hundred seventy-five dollars .....$ 118,475.00
Capital, two hundred fifty dollars .....$ 250.00

FROM THE GENERAL FUND

Salaries and expenses of commission on adoption of federal rules of procedure, two thousand eighteen dollars .....$ 2,018.00

ATTORNEY'S LICENSING BOARD

FROM THE ATTORNEYS' LICENSING FUND

As much as may be necessary to pay all lawful claims, as provided by law.

MONTANA STATE LIBRARY COMMISSION

FROM THE GENERAL FUND

Operation, twenty-seven thousand seven hundred thirty-five dollars .....$ 27,735.00
Capital, fifteen thousand dollars .....$ 15,000.00

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Library services to the blind, three thousand six hundred dollars ..... $ 3,600.00

STATE LIQUOR CONTROL BOARD

The state liquor control board is hereby authorized to pay all lawful claims from the monies received from the sale of liquor in the administration of the liquor control act as provided in sections 4-228 and 4-229, Revised Codes of Montana, 1947.

BEER DIVISION

FROM THE BEER ACT FUND

There is hereby appropriated as much as may be necessary not exceeding ten per cent (10%) of all revenue received, as provided in section 4-347, Revised Codes of Montana, 1947.

RAILROAD COMMISSION

FROM THE GENERAL FUND

Operation, one hundred fifty-six thousand nine hundred forty-three dollars ..... $ 156,943.00
Capital, six hundred eighty-five dollars ..... $ 685.00
Great Northern Pacific & Burlington Line, Inc., merger application hearings, seven thousand five hundred dollars ..... $ *7,500.00*

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SOCIAL SECURITY DIVISION

FROM THE SOCIAL SECURITY DIVISION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SUPERINTENDENT OF PUBLIC INSTRUCTION
ADMINISTRATION AND SUPERVISORS

FROM THE GENERAL FUND

Operation, one hundred sixteen thousand seven hundred fifty-four dollars ..... $ 116,754.00

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Capital, seven hundred dollars .....$ 700.00
Printing of school laws, fifteen thousand dollars ....$ 15,000.00

In distributing copies of the school laws, the superintendent of public instruction shall charge an amount equal to or greater than the cost of each copy. Moneys collected as such charges shall be deposited in the general fund.

CERTIFICATION DEPARTMENT

FROM THE GENERAL FUND

Operation, three thousand five hundred dollars .....$ 3,500.00

FROM THE TEACHERS' CERTIFICATE FUND

As much as may be necessary to pay all lawful claims as provided by law.

SPECIAL EDUCATION DIVISION FOR EXCEPTIONAL CHILD SERVICES

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, seventeen thousand dollars .....$ 17,000.00

SCHOOL LUNCH PROGRAM

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, twenty-nine thousand eight hundred sixty dollars .....$ 29,860.00
Capital, nine hundred dollars .....$ 900.00

There is hereby appropriated from the public school equalization fund the sum of eighteen thousand dollars ($18,000.00) for a revolving fund for the biennium to cover the handling charges of commodities to districts, to be reimbursed by such districts. Any balances remaining in the revolving fund to cover the handling charges of commodities to districts, to be reimbursed by such districts under the school lunch program, shall revert to the public school equalization fund from which it was previously appropriated.

TEXTBOOK LICENSE DIVISION

FROM THE TEXTBOOK LICENSE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SURPLUS DONABLE PROPERTY DIVISION

FROM THE SURPLUS DONABLE PROPERTY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

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VISUAL EDUCATION

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, thirty-five thousand four hundred dollars ..... $ 35,400.00
Capital, two thousand one hundred dollars ..... $ 2,100.00

FROM THE FILM LIBRARY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SUPERVISED CORRESPONDENCE SCHOOL

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, twenty thousand two hundred dollars .... $ *20,200.00*

BOARD OF EDUCATION

FROM THE GENERAL FUND

Operation, four thousand ten dollars ..... $ *4,010.00*

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, sixteen thousand three hundred thirty dollars ..... $ 16,330.00

FROM THE MILLAGE FUND

Operation, twelve thousand two hundred five dollars ..... $ 12,205.00

VOCATIONAL EDUCATION

FROM THE GENERAL FUND

Operation, thirty thousand dollars ..... $ *30,000.00*

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, thirty-two thousand dollars ..... $ 32,000.00
For reimbursement to local schools, thirty-five thousand dollars ..... $ 35,000.00

No reimbursement shall be made to any of the units of the university of Montana from the above general fund appropriations.

ADMINISTRATION OF VOCATIONAL
EDUCATION ACT OF 1946
(P. L. 79-586), AS AMENDED BY P. L. 85-864, TITLE VIII.

FROM THE GENERAL FUND

Operation, five thousand dollars ..... $ 5,000.00

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NATIONAL DEFENSE EDUCATION ACT
OF 1958 (P. L. 85-864)

FROM THE GENERAL FUND

Operation, eighty thousand dollars ..... $ *80,000.00*

WESTERN REGIONAL EDUCATION COMPACT

FROM THE GENERAL FUND

Operation, ten thousand dollars ..... $ 10,000.00

For student exchange fees, sixty-two thousand four hundred dollars ..... $ 62,400.00

INDUSTRIAL ACCIDENT BOARD

FROM THE INDUSTRIAL ACCIDENT ADMINISTRATIVE FUND

There is hereby appropriated all fees and collections accruing to the industrial accident administrative fund for salaries and expenses, as may be necessary to carry out the provisions of this act.

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

FROM THE INDUSTRIAL ACCIDENT SECOND INJURY FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

FROM THE VOLUNTEER FIREMEN'S COMPENSATION FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

FROM THE GENERAL FUND

For payments to persons having silicosis, seven hundred fifty thousand dollars ..... $ 750,000.00

Administration of silicosis program, forty-four thousand seven hundred fifty dollars ..... $ 44,750.00

In the event that Substitute House Bill No. 312 of the thirty-seventh legislative assembly does not become law, the entire appropriation for the silicosis program shall revert to the general fund.

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Section 5. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1962 and ending June 30, 1963.

GOVERNOR'S OFFICE

FROM THE GENERAL FUND

Operation, forty-two thousand, nine hundred ninety-seven dollars ..... $ 42,997.00

GOVERNOR'S MANSION

FROM THE GENERAL FUND

Operation, ten thousand two hundred seventeen dollars ..... $ 10,217.00
Capital, two hundred fifty dollars ..... $ 250.00

EXTRADITION OF PRISONERS

FROM THE GENERAL FUND

Operation, thirty thousand dollars ..... $ 30,000.00

OFFICE OF DIRECTOR OF BUDGET

FROM THE GENERAL FUND

Operation, forty-one thousand nine hundred thirty dollars ..... $ 41,930.00

SECRETARY OF STATE

FROM THE GENERAL FUND

Operation, seventy-one thousand three hundred forty-one dollars ..... $ 71,341.00
Extra legislative help and supplies, six thousand one hundred eighty-three dollars ..... $ 6,183.00

ATTORNEY GENERAL

FROM THE GENERAL FUND

Operation, ninety-six thousand five hundred fifty-seven dollars ..... $ 96,557.00
Capital, two thousand two hundred dollars ..... $ 2,200.00

FROM THE ESCHEATED ESTATES FUND

Operation, eleven thousand two hundred fifty-seven dollars ..... $ 11,257.00

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STATE TREASURER

FROM THE GENERAL FUND

Operation, forty thousand five hundred twenty-seven dollars ..... $ 40,527.00

STATE AUDITOR
AUDITOR'S DIVISION

FROM THE GENERAL FUND

Operation, forty-eight thousand nine hundred fifty dollars ..... $ 48,950.00
Capital, seven hundred forty dollars ..... $ 740.00

FROM THE HIGHWAY FUND

Operation, thirteen thousand dollars ..... $ 13,000.00

FROM THE INCOME TAX WITHHOLDING FUND

Operation, ten thousand dollars ..... $ 10,000.00

INSURANCE DEPARTMENT

FROM THE GENERAL FUND

Operation, forty-two thousand two hundred dollars .. $ *42,200.00*

INSURANCE RATING

FROM THE GENERAL FUND

Operation, seven thousand five hundred dollars .. $ 7,500.00

INVESTMENT COMMISSIONER

FROM THE GENERAL FUND

Operation, thirteen thousand dollars ..... $ *13,000.00*

FIRE MARSHAL DIVISION

FROM THE GENERAL FUND

Operation, fifteen thousand nine hundred dollars .. $ 15,900.00
Capital, one thousand five hundred dollars ..... $ 1,500.00

FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in section 11-1919 of the Revised Codes of Mon-

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tana, 1947, an appropriation sufficient to meet the requirements as provided by law.

SUPREME COURT

FROM THE GENERAL FUND

Operation, one hundred fourteen thousand three hundred thirty-five dollars	$	114,335.00
Capital, two hundred fifty dollars	$	250.00

ATTORNEY'S LICENSING BOARD

FROM THE ATTORNEY'S LICENSING FUND

As much as may be necessary to pay all lawful claims, as provided by law.

MONTANA STATE LIBRARY COMMISSION

FROM THE GENERAL FUND

Operation, twenty-seven thousand seven hundred thirty-five dollars	$	27,735.00
Capital, fifteen thousand dollars	$	15,000.00
Library services to the blind, three thousand six hundred dollars	$	3,600.00

STATE LIQUOR CONTROL BOARD

The state liquor control board is hereby authorized to pay all lawful claims from the monies received from the sale of liquor in the administration of the liquor control act as provided in sections 4-228 and 4-229, Revised Codes of Montana, 1947.

BEER DIVISION

FROM THE BEER ACT FUND

There is hereby appropriated as much as may be necessary not exceeding ten per cent (10%) of all revenue received, as provided in section 4-347, Revised Codes of Montana, 1947.

RAILROAD COMMISSION

FROM THE GENERAL FUND

Operation, one hundred fifty-seven thousand six hundred seventy-five dollars	$	157,675.00
Capital, five hundred dollars	$	500.00

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PUBLIC EMPLOYEES' RETIREMENT SYSTEM

FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM FUND

As much as may be necessary to pay all lawful claims, as provided by law.

"SOCIAL SECURITY DIVISION

FROM THE SOCIAL SECURITY DIVISION FUND

As much as may be necessary to pay all lawful claims, as provided by law."

SUPERINTENDENT OF PUBLIC INSTRUCTION
ADMINISTRATION AND SUPERVISORS

FROM THE GENERAL FUND

Operation, one hundred twelve thousand seven hundred fifty-four dollars	$	112,754.00
Capital, seven hundred dollars	$	700.00

CERTIFICATION DEPARTMENT

FROM THE GENERAL FUND

Operation, three thousand five hundred dollars	$	3,500.00

FROM THE TEACHERS' CERTIFICATE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SPECIAL EDUCATION DIVISION FOR
EXCEPTIONAL CHILD SERVICES

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, sixteen thousand seven hundred two dollars	$	16,702.00

SCHOOL LUNCH PROGRAM

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, thirty thousand eighty-five dollars	$	30,085.00
Capital, three hundred dollars	$	300.00

TEXTBOOK LICENSE DIVISION

FROM THE TEXTBOOK LICENSE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

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SURPLUS DONABLE PROPERTY DIVISION

FROM THE SURPLUS DONABLE PROPERTY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

VISUAL EDUCATION

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, thirty-three thousand dollars	$	33,000.00
Capital, two thousand one hundred dollars	$	2,100.00

FROM THE FILM LIBRARY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SUPERVISED CORRESPONDENCE SCHOOL

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, twenty thousand two hundred dollars	$	*20,200.00*

BOARD OF EDUCATION

FROM THE GENERAL FUND

Operation, four thousand four hundred sixty dollars	$	*4,460.00*

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, sixteen thousand three hundred thirty dollars	$	16,330.00

FROM THE MILLAGE FUND

Operation, eight thousand eight hundred twenty-five dollars	$	8,825.00

VOCATIONAL EDUCATION

FROM THE GENERAL FUND

Operation, thirty thousand dollars	$	*30,000.00*

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Operation, thirty-two thousand dollars	$	32,000.00
For reimbursement to local schools, thirty-five thousand dollars	$	35,000.00

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No reimbursement shall be made to any of the units of the university of Montana from the above general fund appropriations.

ADMINISTRATION OF VOCATIONAL
EDUCATION ACT OF 1946
(P. L. 79-586), AS AMENDED BY P. L. 85-864, TITLE VIII.

FROM THE GENERAL FUND

Operation, five thousand dollars .....$ 5,000.00

NATIONAL DEFENSE EDUCATION ACT
OF 1958 (P. L. 85-864)

FROM THE GENERAL FUND

Operation, eighty thousand dollars .....$ *80,000.00*

WESTERN REGIONAL EDUCATION COMPACT

FROM THE GENERAL FUND

For expenses, ten thousand dollars .....$ 10,000.00
For student exchange fees, eighty thousand four hundred dollars .....$ 80,400.00

INDUSTRIAL ACCIDENT BOARD

FROM THE INDUSTRIAL ACCIDENT
ADMINISTRATIVE FUND

There is hereby appropriated all fees and collections accruing to the industrial accident administrative fund for salaries and expenses, as may be necessary to carry out the provisions of this act.

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

FROM THE INDUSTRIAL ACCIDENT
SECOND INJURY FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

FROM THE VOLUNTEER FIREMEN'S
COMPENSATION FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

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FROM THE GENERAL FUND

For payments to persons having silicosis, seven hundred twenty-five thousand dollars .....$ 725,000.00

Administration of silicosis program, thirty-nine thousand six hundred twelve dollars .....$ 39,612.00

In the event that Substitute House Bill No. 312 of the Thirty-seventh Legislative Assembly does not become law, the entire appropriation for the silicosis program shall revert to the general fund.

Section 6. All appropriations contained herein shall be used for the purposes designated and no other. The definitions given in section 1 of this act govern all appropriations.

Section 7. When an agency has an appropriation from a source other than the general fund, except trust funds the use of which is governed by a specific law, the money from such other sources shall be used, when available, before using general fund appropriations.

Approved March 15, 1961.

HOUSE BILL NO. 463

An Act to Appropriate Money for the Operation and Maintenance of Certain Regulatory Boards and Commissions for the Period Beginning July 1, 1961 and Ending June 30, 1963.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In this act, unless otherwise required by the context:

(1) The term "operation" means all ordinary operating expenses and includes salaries and employers' contributions to social security, public employees' retirement system and teachers' retirement system.

(2) The term "capital," unless otherwise defined, means all articles, fixtures and goods of a permanent nature, including the repair or replacement of capital assets, but does not include the construction of buildings or purchase of land.

Section 2. An appropriation contained in this act is intended to provide only necessary expenditures for the year for which the appropriation is provided; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. It is unlawful to purchase supplies

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for a succeeding biennium from an appropriation contained in this act. Balances unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated for the designated purposes for the period beginning July 1, 1961 and ending June 30, 1962.

ATHLETIC COMMISSION

FROM THE VETERANS MEMORIAL FUND

Operation, seven hundred forty-five dollars .....$ 745.00

AERONAUTICS COMMISSION

FROM THE AVIATION FUND

Salary of department head, nine thousand dollars ..$ 9,000.00
Operation, ninety thousand three hundred seventy-six dollars .....$ 90,376.00
Capital, thirty-nine thousand fifteen dollars .....$ 39,015.00
Aviation education grant, sixteen thousand five hundred dollars .....$ 16,500.00

All monies collected annually in the state aviation fund in excess of the total annual appropriation shall be expended for the promotion of aviation in Montana by making loans or grants to various municipalities and counties in Montana for the acquisition, development, operation or maintenance of airports, airport facilities or navigational aids and also for acquisition and development of state airports by the State of Montana in the manner and for the purposes provided for in section 1-401, Revised Codes of Montana, 1947. Expenditures of such funds shall be carried on under rules and regulations set down by the state aeronautics commission with the approval of the state board of examiners.

OTHER REGULATORY BOARDS

All other regulatory boards which are allowed by law to collect fees shall deposit such fees with the state treasurer as trust funds. All such fees are appropriated for the use of each of the said boards, except when the law provides for deductions.

Section 4. The following sums are appropriated out of any moneys in the state treasury, and from the special funds enumerated herein not otherwise appropriated, for the designated purposes for the period beginning July 1, 1962 and ending June 30, 1963.

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ATHLETIC COMMISSION

FROM THE VETERANS MEMORIAL FUND

Operation, seven hundred forty-five dollars .....$ 745.00

AERONAUTICS COMMISSION

FROM THE AVIATION FUND

Salary of department head, nine thousand dollars ..$ 9,000.00

Operation, ninety-four thousand six hundred ninety-two dollars .....$ 94,692.00

Capital, forty-one thousand five hundred thirty-two dollars .....$ 41,532.00

Aviation education grant, sixteen thousand five hundred dollars .....$ 16,500.00

All monies collected annually in the state aviation fund in excess of the total annual appropriation shall be expended for the promotion of aviation in Montana by making loans or grants to various municipalities and counties in Montana for the acquisition, development, operation or maintenance of airports, airport facilities or navigational aids and also for acquisition and development of state airports by the State of Montana in the manner and for the purposes provided for in section 1-401, Revised Codes of Montana, 1947. Expenditures of such funds shall be carried on under rules and regulations set down by the state aeronautics commission with the approval of the state board of examiners.

OTHER REGULATORY BOARDS

All other regulatory boards which are allowed by law to collect fees shall deposit such fees with the state treasurer as trust funds. All such fees are appropriated for the use of each of the said boards, except when the law provides for deductions.

Section 5. All appropriations contained herein shall be used for the purposes designated and no other. The definitions given in section 1 of this act govern all appropriations.

Approved March 14, 1961.

HOUSE BILL NO. 464

An Act to Appropriate Money to the State Prison for the Completion of Rothe Hall and Erection of a Security Fence.

Be it enacted by the Legislative Assembly of the State of Montana:

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Section 1. An appropriation contained in this act is intended to provide only necessary expenditures for the year for which the appropriation is provided; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. Balances unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 2. The following sums are appropriated out of any moneys in the state treasury for the designated purposes for the period beginning July 1, 1961, and ending June 30, 1962.

STATE PRISON

FROM THE GENERAL FUND

Completion of Rothe hall, thirty-three thousand seven hundred thirty-five dollars	$	33,735.00
Erection of security fence, ten thousand dollars	$	10,000.00

Section 3. The following sums are appropriated out of any moneys in the state treasury for the designated purposes for the period beginning July 1, 1962, and ending June 30, 1963.

STATE PRISON

FROM THE GENERAL FUND

Completion of Rothe Hall, six thousand dollars	$	6,000.00

Approved March 10, 1961.

HOUSE BILL NO. 465

An Act to Appropriate by Means of the Issuance and Sale by the State Board of Examiners of Bonds in Addition to Bonds Already Authorized to be Issued and Sold for the Purposes of Repairing of Furniture in the House and Senate Chambers, and Lobbies and Halls Adjacent Thereto; Repairing and Remodeling of Six (6) Committee Rooms of the House of Representatives of the State of Montana; and Repairing and Painting of the Offices of the Montana Railroad and Public Service Commission in the State Capitol Building; Designating the Monies From Which Said Bonds Should be Paid; Enumerating the Powers and Duties of the State Board of Examiners in Carrying Out the Provisions

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of This Act; Providing That the Appropriation Herein Provided for Shall be Valid Notwithstanding the Provisions of the Budget Act; and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state board of examiners of the State of Montana is hereby authorized to issue and sell bonds as an addition to bonds already authorized to be issued and sold for the purpose of repairing of furniture in the house and senate chambers and the lobbies and halls adjacent thereto; repairing and remodeling of six committee rooms of the house of representatives of the State of Montana and repairing and painting of offices of the Montana railroad and public service commission in the state capitol building of the State of Montana.

Section 2. Upon the sale of bonds, the state board of examiners is empowered and directed to proceed toward the completion of repairing of furniture in the house and senate chambers and the lobbies and halls adjacent thereto; repairing and remodeling of six committee rooms of the house of representatives of the State of Montana and repairing and painting of offices of the Montana railroad and public service commission in the state capitol building of the State of Montana.

Section 3. The aggregate amount of bonds authorized by this act for the purposes herein expressed, shall not exceed the sum of *twenty-three thousand, six hundred dollars ($23,600.00).*

Section 4. Bonds issued and sold by the state board of examiners under authority of this act shall bear interest at a rate not exceeding four per cent (4%) per annum, payable semiannually. They shall be either amortization or serial bonds, shall bear such date as the state board of examiners shall prescribe, and shall be payable over such period of years, not exceeding twenty (20), as said board may specify. All bonds shall be optional and redeemable at any time after the date of issue, at the option of the state board of examiners. Said bonds shall be in such denominations and sums and shall contain such recitals as the state board of examiners may determine, shall be signed by the governor, the attorney general, and the secretary of state as members of said board, and shall be paid at the office of the state treasurer of the State of Montana. The coupons attached to said bonds may bear the facsimile signature of the members of said board.

Section 5. Said bonds shall be sold by the state board of examiners at such time and in such manner as the board shall deem best

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to carry out the provisions of this act; provided that none of such bonds shall be sold for less than par, plus accrued interest to the date of delivery of the bonds. Each of said bonds shall be registered before delivery with the state treasurer of the State of Montana, who shall keep accurate accounts of payments of interest and principal upon said bonds.

Section 6. The principal and interest of the bonds authorized by this act shall be payable out of the following fund and from it only; all the income received from the capitol building land grant, subject only to the prior dedication and appropriation of monies therefrom for the payment of principal and interest of bonds heretofore issued, shall be and the same is hereby perpetually dedicated and appropriated for the payment of the principal and interest of the bonds provided for by this act. Any and all balances or sums now in said capitol building land grant fund or that may accrue to and become a part of said fund prior to the time of the sale of the bonds provided for herein, in excess of the amount heretofore dedicated and appropriated, shall likewise be and the same are hereby pledged and appropriated for the payment of principal and interest of the bonds authorized by this act and to cover and pay the cost of repair and remodeling to the extent said balances or accruals to said fund may be sufficient to pay the same; provided said bonds shall be issued and sold by said board of examiners as herein provided only for the total sum or amount necessary to be raised in excess of such total of all balances or sums now in or that may be accrued to said capitol building land grant in order to make available for such repair and remodeling of furniture and offices in the state capitol building a total of *twenty-three thousand, six hundred dollars ($23,600.00).*

Section 7. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 8. Every section of this act and every part of said section is hereby declared to be independent of each other, and the holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other sections or part hereof.

Section 9. This act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1961.

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HOUSE BILL NO. 466

An Act to Appropriate Money for Participation by the State Board of Education, Ex Officio Regents, University of Montana in the National Defense Student Loan Program.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following sums are appropriated, out of any funds in the state treasury not otherwise appropriated, to the state board of education, ex officio regents, University of Montana for the purpose of state contributions to a student loan fund to be established pursuant to the federal national defense education act of 1958 (public law 85-864), as amended.

FROM THE GENERAL FUND

For the period beginning July 1, 1961, and ending June 30, 1962 ..... $ 22,500.00

For the period beginning July 1, 1962, and ending June 30, 1963 ..... $ 25,500.00

Section 2. The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. Balances unexpended or uncommitted at the end of the second fiscal year shall revert to the fund from which they were appropriated.

Approved March 14, 1961.

HOUSE BILL NO. 468

An Act to Appropriate Money to the State Board of Equalization From the Gasoline Drawback Fund and the Income Tax Withholding Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following sums are appropriated to the state board of equalization for the period beginning July 1, 1961 and ending June 30, 1962:

FROM THE INCOME TAX WITHHOLDING FUND

As much as may be necessary to pay all lawful claims as provided by law.

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FROM THE GASOLINE DRAWBACK FUND

For gasoline drawbacks, including refund to the federal government, or as much as may be necessary to comply with the provisions of the law.

Section 2. The following sums are appropriated to the state board of equalization for the period beginning July 1, 1962 and ending June 30, 1963:

FROM THE INCOME TAX WITHHOLDING FUND

As much as may be necessary to pay all lawful claims as provided by law.

FROM THE GASOLINE DRAWBACK FUND

For gasoline drawbacks, including refund to the federal government, or as much as may be necessary to comply with the provisions of the law.

Approved March 15, 1961.

HOUSE BILL NO. 470

An Act to Appropriate Money for the Public School Classroom Unit Assistance Fund for Distribution as Provided by Law During the Period Beginning July 1, 1961, and Ending June 30, 1963; Providing That if This Act is Finally Held Invalid, Any Moneys Remaining in Such Fund Shall be Transferred to the State Public School Equalization Fund; and Providing That the Appropriations Herein Shall Be Valid, Notwithstanding the Provisions of the Budget Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there is hereby appropriated from the state treasury to the public school classroom unit assistance fund, to be distributed in accordance with the provisions of law, for the period beginning July 1, 1961, and ending June 30, 1962, the following sum, or so much thereof as may be necessary:

FROM THE GENERAL FUND

Eight hundred and fifty-five thousand, five hundred and forty-four dollars .....$ 855,544.00

Section 2. That there is hereby appropriated from the state

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treasury to the public school classroom unit assistance fund, to be distributed in accordance with the provisions of law, for the period beginning July 1, 1962, and ending June 30, 1963, the following sum, or so much thereof as may be necessary:

FROM THE GENERAL FUND

Eight hundred and fifty-five thousand, five hundred and forty-four dollars ..... $ 855,544.00

Section 3. The appropriations hereinabove provided for shall be deemed and held valid, notwithstanding the provisions of the budget act.

Section 4. In the event that it shall finally be determined by the supreme court of the State of Montana that this act is invalid, any moneys remaining in the public school classroom unit assistance fund shall be transferred to the state public school equalization fund.

Approved March 15, 1961.

HOUSE JOINT MEMORIAL NO. 3

A Joint Memorial by the House of Representatives and the Senate of the Thirty-seventh Legislative Assembly of the State of Montana to the Governor of the State of Montana and to the Heads of All Departments of the State Government of the State of Monana Relating to a Good Business Climate in the State of Montana.

WHEREAS, Montana has available a great storehouse of undeveloped natural resources; and

WHEREAS, Montana is blessed with a readily available competent skilled and vigorous labor pool; and

WHEREAS, The future growth of Montana is dependent upon the proper and maximum utilization of this reservoir of human and natural resources; and

WHEREAS, agriculture is the largest industry in Montana and the products of agriculture are vital to the economic health of all citizens and general business prosperity, it is of paramount importance that it should have a price structure that is fair to the producer and consumer; and

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WHEREAS, Montana's most valuable resource is its youth, many of whom are leaving the state to find employment elsewhere; and

WHEREAS, there must, in the proper development of the economic and social growth of this state be no negative attitudes and a minimum of deterrents, which would restrain or impede the sound and vigorous use of these available resources; and

WHEREAS, in order to attract and promote industry, establish new payrolls, combat unemployment and to broaden the tax-paying base it is necessary to create a positive and favorable business climate within the State of Montana; and

WHEREAS, an excessive tax burden, discriminatory and punitive legislation and controls are incompatible with the growth of industry and employment; and

WHEREAS, free enterprise, under democracy, has attained the highest level of individual liberties and standard of living in the world; and

WHEREAS, the existence of a good business climate is to the best interests of the State of Montana and all its people, and places Montana on a fair competitive basis with other states for the attraction of industry, economic growth, and the creation of new payrolls;

NOW, THEREFORE, BE IT RESOLVED BY THE THIRTY-SEVENTH MONTANA LEGISLATIVE ASSEMBLY, that the legislative assembly shall examine all proposed legislation in terms of its effect upon the business climate of the state, as outlined, and shall determine whether such legislation may have any discriminatory or deterrent effect upon the investment of capital of businesses and industries and of the creation of new and needed payrolls in Montana, and shall recognize the basic rights of all Montana citizens both individual and corporate;

BE IT FURTHER RESOLVED by the members of this legislature that they hereby request the governor and heads of all departments of this state government, to continue to examine their own discretionary actions and orders in terms of their effect on the business climate of Montana; and

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the governor and all officials and heads of the state government of Montana.

Approved February 1, 1961.

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HOUSE JOINT MEMORIAL NO. 6

A Joint Memorial of the House of Representatives and the Senate of the State of Montana to the Congress of the United States, to the Honorable Mike Mansfield and Lee Metcalf, United States Senators of Montana, and to the Honorable James F. Battin and Arnold H. Olsen, Representatives in Congress From Montana, and to the Secretary of Agriculture of the United States, Requesting Extension of the Sugar Act of 1948, as Amended.

WHEREAS, the United States sugar program has been in existence since 1934 and is presently operating under legislation entitled "the sugar act of 1948 as amended;" and

WHEREAS, the sugar act of 1948 has provided great stability to the sugar beet growers in Montana and throughout the nation and has assured adequate sugar supplies to consumers in the United States at reasonable prices; and

WHEREAS, the deterioration of relations with the present government of Cuba and other international problems prevented the 86th congress of the United States from taking the necessary action to extend the sugar act of 1948 for a term of years; and

WHEREAS, the sugar act of 1948 is scheduled to expire March 31, 1961, and steps must be taken by the congress of the United States if continuity of the legislation is to be achieved and if serious disruption in supplies of sugar is to be avoided;

NOW, THEREFORE, BE IT RESOLVED, by the house of representatives and the senate of the State of Montana, that the 87th congress immediately extend the present sugar act of 1948 through December 31, 1961; and

BE IT FURTHER RESOLVED, that prior to recess of the first session, the 87th congress enact legislation for a sufficient term of years to provide a basis for sound economic planning on the part of the sugar industry of the nation in recognition of the increasing importance of the sugar beet industry to this nation and the added reliance which this nation has placed on increased domestic sugar production; and

BE IT FURTHER RESOLVED, that copies of this memorial be transmitted by the secretary of state of the State of Montana to the congress of the United States of America, Senator Mike Mansfield, Senator Lee Metcalf, Congressman James F. Battin, Congressman Arnold H. Olsen, and to the secretary of agriculture, Washington, D. C.

Approved February 1, 1961.

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SUBSTITUTE HOUSE JOINT MEMORIAL NO. 9

A Joint Memorial of the House of Representatives and the Senate of the State of Montana, to the President of the United States and the Congress of the United States and to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana, and the Honorable Arnold H. Olsen and the Honorable James Battin, Congressmen From the State of Montana, Relating to the Retention of the Connally Reservation and That No Law Shall be Passed That Will Affect the Right of Self-Determination by the United States.

WHEREAS, the Connally reservation to our membership in the world court, which reserves to the United States the decision as to whether an issue referred to the court is governed by American domestic jurisdiction; and

WHEREAS, the campaign to abolish the Connally amendment and give compulsory jurisdiction over the United States keeps bursting into flame;

NOW, THEREFORE, BE IT RESOLVED, BY THE THIRTY-SEVENTH SESSION OF THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA, THE SENATE AND HOUSE OF REPRESENTATIVES CONCURRING, that we respectfully urge the congress of the United States to retain the Connally reservation and to pass no law which will affect the right of self-determination by the United States;

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the chief clerk of the house of representatives, to the president of the United States, to the president pro tempore of the senate of the United States, to the speaker of the house of representatives of the United States and to the Honorable Mike Mansfield and the Honorable Lee Metcalf, senators from Montana, and the Honorable Arnold H. Olsen and the Honorable James Battin, representatives in congress from Montana.

Approved February 21, 1961.

HOUSE JOINT MEMORIAL NO. 12

A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States; to the Honorable Mike Mansfield and the Honorable Lee

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Metcalf, Senators From the State of Montana; to the Honorable James Battin and the Honorable Arnold H. Olsen, Representatives From the State of Montana; to the Secretary of the Interior; to the Chairmen of the Appropriations Committees of the United States Senate and House of Representatives; to the Senate and House of Representatives of the United States in Congress Assembled, to the United States Army Corps of Engineers and to the Federal Power Commission, Providing That the Application for License to Construct These Projects is Consistent With the Orderly, Integrated and Comprehensive Development of the Columbia River Basin as Recommended Under Provisions of the Corps of Engineers' '308' Report; and Providing That An Acceptable Agreement is Consummated With the Kootenai, Salish and Flathead Indian Tribes for the Use of Said Sites, Otherwise This Memorial Shall be of No Force and Effect; Urging That the Federal Power Commission Grant the Application of a Taxpaying Enterprise to Construct, Own and Operate the Dams and Hydroelectric Facilities at Buffalo Rapids Sites Nos. 2 and 4 in Lake County and Sanders County, Montana.

WHEREAS, an investor-owned taxpaying enterprise has announced its intention of applying to the federal power commission for permission to immediately construct, own and operate dams and hydroelectric facilities at the Buffalo Rapids sites Nos. 2 and 4 in the Buffalo Rapids stretch of the Flathead river, located in and between Lake county and Sanders county, Montana; and

WHEREAS, the construction of said dams and hydroelectric facilities at Buffalo Rapids sites Nos. 2 and 4 by a taxpaying enterprise would improve local economic conditions, would result in a minimum of economic dislocation and is highly acceptable to the people of the immediate area; and

WHEREAS, the construction of said Buffalo Rapids projects would broaden the tax base of Lake county and Sanders county and the resultant greatly-increased-tax collections every year would strengthen county government services and local school systems as well as to substantially increase payments of state and federal corporation taxes; and

WHEREAS, the construction, development and operation of said Buffalo Rapids projects would respect the treaty rights of the Flathead Indian tribe and would result in substantial annual payments of rentals to said tribe for the use of tribal lands, an aspect not contemplated by other developments which have been proposed in the area; and

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WHEREAS, the construction of said Buffalo Rapids projects would mean a tremendous investment in materials and labor in that area of western Montana near presently distressed areas, which would create remedial employment without expenditures of tax monies during the period of construction and thereafter; and

WHEREAS, the only remaining major obstacle to this much needed development in western Montana is the issuance of the necessary license by the federal power commission;

NOW, THEREFORE, BE IT RESOLVED BY THE THIRTY-SEVENTH SESSION OF THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA, THE SENATE AND HOUSE OF REPRESENTATIVES CONCURRING, *providing that the application for license to construct these projects is consistent with the orderly, integrated and comprehensive development of the Columbia river basin as recommended under provisions of the corps of engineers' '308' report which is finally adopted; and providing that an acceptable agreement is consummated with the Kootenai, Salish and Flathead Indian tribes for the use of said sites, otherwise this Memorial shall be of no force and effect;* that we respectfully urge that the federal power commission act favorably upon the application of a taxpaying enterprise for a license to construct, own and operate dams and hydroelectric facilities at Buffalo Rapids sites Nos. 2 and 4 in Lake county and Sanders county, Montana, when such application comes before it in order that western Montana can gain the benefits of investment and employment as soon as possible;

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the secretary of state of the State of Montana to the president of the United States, to the president pro tempore of the senate of the United States, to the speaker of the house of representatives of the United States and to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from Montana, and the Honorable Arnold H. Olsen and the Honorable James Battin, representatives in congress from Montana, to the secretary of the interior, the chairmen of the appropriations committees of the United States senate and house of representatives, the United States army corps of engineers, and the federal power commission in Washington, D. C.

Approved March 15, 1961.

HOUSE JOINT MEMORIAL NO. 14

A Joint Memorial of the House of Representatives and Senate of

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the State of Montana to the Congress of the United States; the Honorable Mike Mansfield and Honorable Lee Metcalf, Senators From the State of Montana; the Honorable Arnold Olsen and the Honorable James Battin, Representatives From the State of Montana; and the Committee on Interior Affairs and the Judiciary Committee of the United States Senate and House of Representatives Urging the Adoption of Legislation Vesting in the Local United States District Court Jurisdiction to Review Final Administrative Action Relating to Determinations Respecting Grazing Privileges, Permits or Licenses on Any Part of the Public Domain of the United States, Excepting Those Lands Administered by the Forest Service in the Department of Agriculture of the United States.

WHEREAS, under present federal law, action to review final administrative determinations respecting grazing privileges, rights and licenses must be brought in the courts of the District of Columbia; and,

WHEREAS, the cost of bringing and prosecuting such action at a place so distant from the western states where the federal grazing lands are and where the necessary witnesses reside is so great as to deny to users of the public domain judicial review of administrative action; and,

WHEREAS, there is at present legislation in the national congress sponsored by Senator Church of Idaho, and others, to vest jurisdiction in the United States judicial district where the public domain lands involved, in any case, respecting grazing rights, privileges and licenses are involved;

NOW, THEREFORE, BE IT RESOLVED by the house of representatives of the State of Montana, the senate concurring herein, that the congress of the United States be urged to enact legislation which will vest in the United States district court of the district in which lands in the public domain involved in any case respecting grazing privileges, rights or licenses are situated, actions to review final administrative determination of grazing privileges, rights and licenses; and, *excepting those lands administered by the forest service in the department of agriculture of the United States.*

BE IT FURTHER RESOLVED that copies of this memorial be forwarded to each of the persons and committees named in the title of this memorial.

Approved March 6, 1961.

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HOUSE JOINT MEMORIAL NO. 15

A Joint Memorial to United States Secretary of Agriculture, the Honorable Mike Mansfield and Lee Metcalf, Senators From the State of Montana, and the Honorable Arnold Olsen and James Battin, Congressmen From the State of Montana, Requesting Congress to Amend the Necessary Federal Statutes to Provide That State Correctional Institutions for Adults Are Eligible to Receive Federal Donations of Non-Luxury Type Surplus Foods.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

WHEREAS, surplus foods are donated to federal, state and non-profit private agencies by the commodity credit corporation; and

WHEREAS, the object of such donations is to prevent waste and lessen storage costs by reducing the quantities of food surpluses; and

WHEREAS, state correctional institutions for adults are not now eligible to receive donations of surplus foods; and

WHEREAS, the inclusion of state correctional institutions for adults among those eligible to receive donations of surplus foods would further assist in reducing such surpluses;

NOW, THEREFORE, BE IT RESOLVED, that the congress of the United States be requested to amend the necessary federal statutes to provide that state correctional institutions for adults are eligible to receive federal donations of non-luxury type surplus foods.

BE IT FURTHER RESOLVED, that the secretary of state be instructed to send copies of this resolution to the United States secretary of agriculture and to the Honorable Mike Mansfield and Lee Metcalf, senators from the State of Montana, and the Honorable Arnold Olsen and James Battin, congressmen from the State of Montana.

Approved March 6, 1961.

HOUSE JOINT MEMORIAL NO. 18

A Joint Memorial of the House of Representatives and the Senate of the State of Montana to the Congress of the United States, to

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the Honorable Mike Mansfield, and the Honorable Lee Metcalf, Senators From the State of Montana, the Honorable Arnold Olsen and the Honorable James F. Battin, Representatives in Congress From the State of Montana, and to the Honorable Olin Teague, Chairman, Veteran Affairs Committee of the U. S. House of Representatives; Urging That the Congress of the United States Enact Legislation Granting Pensions to World War I Veterans as Heretofore Done for the Spanish-American Veterans and Veterans of Other Prior Wars of the United States.

We, your memorialists, the thirty-seventh legislative assembly of the State of Montana, in legislative session assembled, most respectfully represent as follows:

WHEREAS, the national policy of the United States of America has been to honor the veterans of wars of the United States by granting assistance to them in their declining years, by pensions, all in consideration of their military services in defense of our country; and

WHEREAS, all social agencies, in fact the great majority of the people of this nation, are now deeply concerned about the problems of the aged, approximately 16,000,000 men and women over the age of 65; and

WHEREAS, of this number there are approximately 2,000,000 veterans of World War I whose present financial condition generally is below that of the average as the direct result of their having served this nation in the armed forces during World War I; and

WHEREAS, their present financial condition is due to the fact that this group of veterans did not have the rights, benefits and advantages accorded to those veterans of previous and subsequent wars, such as homestead land grants, homesteading privileges, direct pensions, guaranteed job rights, college educations and vocational training, guaranteed loans for the purchasing of farms, businesses and homes, unemployment insurance and social security; and

WHEREAS, there has been no general pension granted to veterans of World War I by the United States;

NOW, THEREFORE, BE IT RESOLVED by the house of representatives of the State of Montana, the senate jointly concurring therein, that it is urged that the congress of the United States of America enact legislation granting pensions to World War I veterans as heretofore for the Spanish-American veterans and the veterans of other prior wars of the United States; and

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BE IT FURTHER RESOLVED, that the secretary of state of the State of Montana is hereby instructed to dispatch copies of this memorial to the persons named in the title of this memorial.

Approved March 8, 1961.

HOUSE JOINT RESOLUTION NO. 1

A Joint Resolution of the Senate and House of Representatives Requesting the Legislative Council to Study State Fiscal Procedures, the Earmarking of Revenue, the Fund Structure and the System of Accounts of the State of Montana and to Report Its Recommendations to the Thirty-eighth Legislative Assembly.

WHEREAS, the moneys of the State of Montana are presently held in over three hundred (300) distinct funds, many of which are under the exclusive control of single state agencies; and

WHEREAS, the dedication of state revenue for specific purposes and the holding of such revenue in these many distinct funds has the following detrimental effects:

(1) Lack of incentive to increase operating efficiency on the part of agencies with assured income.

(2) Prohibition of comprehensive and effective budgeting by the executive branch.

(3) Misrepresentation of the condition of state finances.

(4) Usurpation of the legislative assembly's control over state finances, which has now dwindled to less than 30% of the total state expenditures;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to study the fund structure of the State of Montana and examine the practice of earmarking state revenue and to prepare a plan whereby as many of the funds as possible, excluding trust funds and sinking funds, may be consolidated into the general fund; and

BE IT FURTHER RESOLVED, that the legislative council examine the fiscal procedures and the system of accounts of the State of Montana and determine how the financial condition of the state might be more accurately reported; and

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BE IT FURTHER RESOLVED, that the legislative council report its findings and recommendations, together with implementing legislation where necessary, to the thirty-eighth legislative assembly.

Approved February 28, 1961.

HOUSE JOINT RESOLUTION NO. 5

A Joint Resolution of the Senate and House of Representatives Directing the Montana Highway Department to Mark Approaches to Older, Narrow Bridges With Larger, More Conspicuous Signs and to Replace Old Bridges With Wider, Safer Bridges When Reasonably Possible.

WHEREAS, the old-fashioned, narrow bridges on Montana's highways have been responsible for traffic accidents, resulting in injury and loss of life to motorists, and

WHEREAS, intermittent stretches of new, well-marked unrestricted four-lane highways have contributed to the dangerous situation by leaving unwary motorists unprepared for the narrow bridges on the older highways,

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana highway department be directed to proceed at once to mark approaches to old, narrow bridges on Montana highways with larger and more conspicuous signs; and

BE IT FURTHER RESOLVED, that the highway department replace older bridges with wider, safe bridges as soon as reasonably possible; and

BE IT FURTHER RESOLVED, that a copy of this joint resolution be sent by the secretary of State of Montana to the members of the state highway commission and to the state highway engineer.

Approved February 28, 1961.

HOUSE JOINT RESOLUTION NO. 6

A Joint Resolution of the Senate and House of Representatives of the State of Montana, Ratifying the Proposed Amendment to the

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Constitution of the United States Relating to the Creating of Representation in the Electoral College for the District of Columbia.

WHEREAS, the eighty-sixth congress of the United States of America, at its second session, in both houses, by a constitutional majority of two-thirds thereof, has made the following proposition to amend the constitution of the United States of America in the following words, to-wit:

"JOINT RESOLUTION

"Resolved by the senate and house of representatives of the United States of America in congress assembled (two-thirds of each house concurring therein), that the following article is hereby proposed as an amendment to the constitution of the United States, which shall be valid to all intents and purposes as part of the constitution only if ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the congress:

"Article

"Section 1. The district constituting the seat of government of the United States shall appoint in such manner as the congress may direct:

"A number of electors of president and vice president equal to the whole number of senators and representatives in congress to which the district would be entitled if it were a state, but in no event more than the least populous state; they shall be in addition to those appointed by the states, but they shall be considered for the purposes of the election of president and vice president, to be electors appointed by a state; and they shall meet in the district and perform such duties as provided by the twelfth article of amendment.

"Section 2. The congress shall have power to enforce this article by appropriate legislation."

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA, THE SENATE CONCURRING, that the said proposed amendment to the constitution of the United States of America, be and the same is hereby ratified; and be it further RESOLVED, that certified copies of this resolution shall be forwarded by the secretary of state to the administrator of general services, Washington, D. C., to the president of the senate, and to the speaker of the house of representatives of the congress of the United States.

Approved February 14, 1961.

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HOUSE JOINT RESOLUTION NO. 8

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Legislative Council to Develop a General Plan for the Reorganization of State Government for Future Guidance Including Necessary Amendments to the Constitution, to Make Specific Recommendations for the Consolidation and Elimination of State Agencies, to Appoint a Bipartisan Task Force to Assist in the Study and to Report Its Findings to the Thirty-eighth Legislative Assembly.

WHEREAS, the governmental powers of the State of Montana are dispersed among more than 100 state agencies, boards and offices; and

WHEREAS, it appears that many of these state agencies, boards and offices are unnecessary and result in inefficiency and a lack of centralized control in the administration of public affairs as well as a lack of economy in the expenditure of public funds; and

WHEREAS, there appears to be an increasing public demand for a reorganization of the executive branch of state government and for the continued consolidation or elimination of state agencies, boards and offices; and

WHEREAS, some of the necessary changes may be brought about by statutory amendment, but others will require constitutional revision; and

WHEREAS, the constitution of the State of Montana has been in force for nearly three-quarters of a century; and

WHEREAS, the growth in population, industry and resource production that has come and will come to this state in future decades requires an effective and efficient system of state and local government; and

WHEREAS, the length and detail of the present constitution of the State of Montana have required increasingly frequent amendments to adapt the constitution to the needs of modern times; and

WHEREAS, any comprehensive constitutional revision should be preceded by careful and impartial research and thoughtful and responsible study; and

WHEREAS, funds do not presently exist to finance a separate commission to study the constitution;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

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That the legislative council is requested to continue its study on governmental organizations, to develop a general plan for reorganization of the executive branch of state government for future guidance and to determine where constitutional amendments are needed to accomplish such reorganization; and

BE IT FURTHER RESOLVED, that the legislative council study the constitution of Montana to determine the adequacy and suitability of the constitution to present needs and conditions, giving priority to those provisions of the constitution relating to the executive branch of government; and

BE IT FURTHER RESOLVED, that the legislative council make specific studies to determine which agencies, boards or offices should be immediately eliminated or consolidated; and

BE IT FURTHER RESOLVED, that a bipartisan task force of six members representing as nearly as possible the diverse economic interests of this state be appointed by the council to assist it in this study; and

BE IT FURTHER RESOLVED, that the legislative council report its findings and recommendations to the thirty-eighth legislative assembly, together with such bills and resolutions as may be necessary to implement its findings.

Approved February 28, 1961.

HOUSE JOINT RESOLUTION NO. 12

A Joint Resolution of the House of Representatives of the State of Montana, the Senate Concurring, Declaring It to Be Against the Public Policy of the State of Montana, and An Unfair Employment Practice, to Arbitrarily Discriminate Against Well Qualified and Otherwise Desirable Individuals Between the Ages of Forty (40) and Sixty-five (65) Years, Solely Because of Their Age, and When Not Precluded By Variance of Insurance Coverages, the Retirement System of the Employer, or Other Reason Not a Subterfuge to Evade the Purposes Hereof.

WHEREAS, the legislature of the State of Montana finds that the practice of discriminating in employment against properly qualified persons because of their age is contrary to American principles of liberty and equality of opportunity, is incompatible with the constitution, deprives the State of Montana of the fullest utilization

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of its capacities for production, and endangers the general welfare; and

WHEREAS, hiring bias generally against workers over forty (40) years of age deprives the State of Montana of its most important resource of experienced and skilled employees, adds to the number of persons receiving public assistance, tosses away our investment in trained, able people, and deprives older people of the dignity and status of self-support; and

WHEREAS, in the collossal struggle with communism, America cannot afford to arbitrarily diminish its reservoir of skills and knowledge, and to waste it may be fatal to freedom;

NOW, THEREFORE, BE IT RESOLVED, that the thirty-seventh legislative assembly of the State of Montana hereby declares it to be against the public policy of the State of Montana, and an unfair employment practice, for an employer, by himself or his agent, except in the case of a bona fide occupational qualification or need, because an individual is between the ages of forty (40) and sixty-five (65) years, to arbitrarily refuse to hire or employ, or to bar or to discharge from employment such individual or to discriminate against him in compensation or in terms, conditions or privileges of employment, or to fail or refuse to classify him properly or to refer him for employment, or to advertise employment opportunities in such a manner as to restrict such employment so as to discriminate against such individual;

HOWEVER, BE IT FURTHER RESOLVED, that nothing herein shall be construed to apply to employees or prospective employees who are physically or mentally unable, or otherwise incapacitated, to perform the duties of such employment, or to effect the retirement policy or system of any employer where such policy or system is not merely a subterfuge to evade the purposes of this resolution, nor shall anything in this resolution be deemed to preclude the varying of insurance coverages according to an employee's age.

Approved March 6, 1961.

SENATE JOINT MEMORIAL NO. 1

A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the United States, John F. Kennedy; the Congress of the United States; Mike Mansfield and Lee Metcalf, Senators From the State of Montana; Arnold

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Olsen and James Battin, Representatives in Congress From the State of Montana; the Committee on Public Works of the United States House of Representatives; the Committee on Appropriations of the United States Senate; the Committee on Appropriations of the United States House of Representatives; the Secretary of the Army; the Chief of the Corps of Engineers, Department of the Army; and the Director of the Budget; Urging Ratification of International Joint Commission Agreement, Urging Construction of Libby Dam As Soon As Possible in Order to Protect the National Interest in Water and Water Resources Rising in the United States; and Requesting Sufficient Appropriations So That Detailed Planning and Design Work Can Begin Immediately; Providing for a Reservation of Power for Montana.

WHEREAS, Libby dam site is located in Lincoln county in western Montana and Libby dam will be constructed across the Kootenai river some 15 miles upstream from Libby, Montana; and

WHEREAS, preliminary geological and engineering investigation and planning of the Libby dam project have been carefully completed and the findings compiled; and

WHEREAS, Libby dam, the biggest storage project remaining to be built in the Pacific northwest, will be designed to provide flood control, hydroelectric power, recreation and navigation benefits to Montana, the Pacific northwest and the nation; and

WHEREAS, the Libby project's tremendous storage of water—5,985,000 acre-feet—would provide valuable flood control for several hundred miles along the Kootenai and Columbia rivers and also would substantially aid flood control and navigation on the Columbia river below Pasco, Washington; and

WHEREAS, Libby dam will have an initial installed electric generating capacity of 800,000 kilowatts of power, which Montana and the northwest need to bring in new industry; and

WHEREAS, Libby dam storage would also firm up power production in the projects downstream on the Columbia river; would provide a regulated stream flow which would add 805,000 kilowatts to the production at Grand Coulee, Chief Joseph, McNary, the Dalles and Bonneville dams; and

WHEREAS, no other proposed single dam on the Columbia river system would provide for generation of as much salable power at site and downstream; and

WHEREAS, the rapidly increasing population of the Pacific

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northwest and the nation places upon this generation a special responsibility for the maximum utilization of all the great natural resources bestowed upon this country by Divine Providence; and

WHEREAS, the Pacific northwest is isolated from the major population centers of the nation by great distances and high freight rates and must rely upon the full development of its own natural resources in providing for its future growth and economic welfare; and

WHEREAS, hydroelectric power is the only truly inexhaustible energy resource available to a civilization whose entire future growth and economic strength will be increasingly dependent upon the provision of adequate supplies of electric energy; and

WHEREAS, the industrial development of Montana and the entire Pacific northwest will be greatly enhanced by the large amounts of low cost power made available by the full development of the potential of the Libby dam site; and

WHEREAS, the people of the State of Montana have seen in the examples of Hungry Horse dam on the south fork of the Flathead river in their state and many other dams in the Pacific northwest the immense benefits which accrue as a direct result of the construction of such great projects, not only to the state in which they are constructed but also to the entire region and the nation; and

WHEREAS, revenues from the sale of power from Libby dam represent the most feasible source of funds to aid in the rapid construction and the maintenance of major future irrigation projects in the State of Montana, which developments can provide homes for any farm families which may be displaced by the construction of Libby dam; and

WHEREAS, large amounts of storage are required in the Columbia river and Clark Fork river basins to provide adequate protection against the seasonal floods which periodically cause great loss of life and the destruction of millions of dollars worth of property, causing great hardship throughout the Pacific northwest; and

WHEREAS, many of the large storage projects planned by the army engineers for the control of floods in the Columbia river basin have been and are being lost due to conflicting uses and inadequate development, so that it is seriously doubtful that even the minimum flood control storage requirements of the region can be met; and

WHEREAS, Libby dam, with 5,985,000 acre-feet of usable storage in its reservoir is one of the few remaining great storage projects still feasible and not involved in serious controversy in the Col-

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umbia river basin and can provide more usable flood control storage than a combination of all the other feasible potential projects in the Clark Fork river basin; and

WHEREAS, Libby dam, as planned has the approval of the International Joint Commission; and

WHEREAS, in order to protect Montana's and the national interest in water and water resources rising in the United States, in order to provide for at least partial flood control and storage;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the representatives of the State of Montana in the congress of the United States be urged and requested to expedite ratification and construction of Libby dam;

BE IT FURTHER RESOLVED, that the congress of the United States be urged to provide sufficient appropriations so that detailed planning and design work can begin immediately and that construction can begin as soon as design work is completed;

BE IT FURTHER RESOLVED, that said legislation authorizing funds for the construction of Libby dam contain a provision reserving to Montana a block of power generated by Libby dam; and

BE IT FURTHER RESOLVED, that this assembly request the congress, in making appropriations for the construction of the Libby project, to define the compensations that shall be received from the government of the United States by the County of Lincoln and by affected cities and school districts in said county for extraordinary expenses resulting from expanded services required in the fields of school and hospital facilities, health and sanitation, and police protection incidental to the construction of said projects; and to provide all necessary funds and take all needed action to insure the construction of all transportation and other facilities needed to provide opportunity equal to that now existing of access to mines, to forests in federal, state, and private ownership, and to manufacturing and refining plants, to the end that the present steady and continuous employment of Montana people depending upon forests and mines for their livelihood will not be adversely affected; and

BE IT FURTHER RESOLVED, that copies of this memorial be submitted by the secretary of the State of Montana to each of the individuals and to the chairmen of each of the committees named in

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the title of this memorial and also to the presiding officers of both houses of the congress of the United States, Lyndon B. Johnson, and Sam E. Rayburn.

Approved March 3, 1961.

SENATE JOINT MEMORIAL NO. 2

A Joint Memorial of the Senate and House of Representatives of the Thirty-seventh Legislative Session of the State of Montana to the Honorable John F. Kennedy, President of the United States of America, to the Honorable J. Edward Day, Postmaster General of the United States of America, to United States Senators of Montana, the Honorable Michael J. Mansfield and the Honorable Lee Metcalf, to the Congressmen of Montana, the Honorable Arnold H. Olsen and the Honorable James Battin, to the Interstate Commerce Commission, and the United States Civil Aeronautics Board; Requesting the Maintenance of Railway Service for First-Class Mail and Air Mail Service at Air Mail Rates as the Most Efficient and Satisfactory Combination for the State of Montana, and Requesting Opposition to Legislation Diverting First-Class Mail From Railway Service at the Expense of Taxpayers.

WHEREAS, the State of Montana, due to its remoteness from the more populous areas of the nation, is in constant need of the best transportation facilities possible, and its citizens depend heavily upon railroad passenger transportation because of its dependability in all types of weather, and because a number of communities have no other type of scheduled transportation for access to other parts of the state and nation, and

WHEREAS, the same trains which carry passengers furnish a regular and needed mail service which provides excellent service to many communities, particularly the smaller towns and cities of the State of Montana. The processing of mail en route on these trains provides the smaller communities with rapid and efficient service, and is a necessary and desirable part of their community and business life, and

WHEREAS, in addition, this mail business on trains provides the carrier with revenues of such importance that passenger trains can be operated profitably within the State of Montana, or at such small losses that the carriers can continue the operation despite greatly reduced passenger revenues, and

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WHEREAS, the crews operating the trains and the employees handling the mail on these trains are a vital part of the state's economy and of the community life of the towns and cities in which they reside, and the maintenance of their profitable employment is important to the state as a whole, and

WHEREAS, recent proposals of the federal post office department pose a serious threat to the maintenance of railway mail service of all kinds. These proposals are to substitute air transportation of a large portion of this railroad mail at regular four-cent first-class mail rates on a "space available" basis, and

WHEREAS, such proposals not only would deprive many communities of rapid and efficient mail service, since mail carried in this manner would have to be "back-hauled" as much as several hundred miles, thus resulting in delays caused by this cumbersome and inefficient method of handling, and because severe weather, so common to Montana, would render the substitute service undependable, and

WHEREAS, in addition, such a plan would force even greater air mail subsidies upon the general taxpayer at a time when air carriers serving Montana already are receiving millions of dollars in air mail subsidy in addition to the money those carriers receive for the handling of air mail.

Such a plan would create a discrimination against many Montana communities and against persons who pay regular seven-cent air mail rates for faster service and yet receive no better service than a person paying four cents.

Imposition of this plan would inevitably take from these communities satisfactory service, would greatly endanger the continued operation of passenger trains in Montana, and would cause to be unemployed many employees in the train and mail service.

Use of "space available" air transport of first-class mail already has caused serious erosion of air mail revenues to the federal post office department, and expansion of the system would inevitably further increase the post office deficit to the expense and detriment of taxpayers, in addition to subsidy drains on the federal treasury, and

WHEREAS, the 86th congress had before it H. R. 12595, known as the Cunningham bill, which would have directed the postmaster general to cease diversions of first-class mail from railway service at the expense of taxpayers. This measure was passed by the house of representatives, but time prevented action in the senate

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before adjournment. The national association of railroad and utilities commissioners, at its national convention November 28 to December 1, 1960, has supported this legislation and opposed the diversionary plans, and

WHEREAS, Montana's congressional delegation has used its strength and influence to support this legislation and thus combat this plan of the federal post office department, and is hereby commended for that effort and encouraged to redouble its efforts and energies in opposing any such move.

NOW, THEREFORE, BE IT RESOLVED by the thirty-seventh legislative assembly of Montana of 1961, now in session, the senate and house of representatives concurring, that we respectfully recommend and urge the president of the United States, the postmaster general of the United States, the senators and representatives from Montana, the interstate commerce commission and the civil aeronautics board of the United States to encourage, by and through legislation, the maintenance of railway service for first-class mail and air mail service at air mail rates as the most efficient and satisfactory combination for the State of Montana, and to combat and oppose any legislative plans to divert first-class mail from railway service at the expense of taxpayers.

BE IT FURTHER RESOLVED that copies of this memorial be forwarded by the secretary of state of the State of Montana to the Honorable John F. Kennedy, president of the United States, the Honorable J. Edward Day, postmaster general of the United States, the Honorable Michael J. Mansfield and the Honorable Lee Metcalf, United States senators from Montana, the Honorable Arnold H. Olsen and the Honorable James Battin, congressmen from Montana, the interstate commerce commission and the civil aeronautics board of the United States.

Approved March 3, 1961.

SENATE JOINT MEMORIAL NO. 4

A Joint Memorial of the Senate and House of Representatives of the State of Montana to United States Senators Mike J. Mansfield and Lee Metcalf and to United States Representatives Arnold H. Olsen and James F. Battin, Members of the Montana Congressional Delegation, Urging the President, the Senate Committee on Finance and House Committee on Ways and Means to

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Direct the United States Tariff Commission to Review and Re-evaluate Import Quotas and Import Duties on Meats and Meat Products to the End That Friendly Relations With Other Countries be Maintained Without Damaging the Domestic Livestock-Producing Industry of the United States.

WHEREAS, the livestock-producing industry is vital to the economy of Montana and the entire nation; and

WHEREAS, great numbers of cattle are being held on ranches and farms because of the low price of cattle; and

WHEREAS, the number of cattle on ranches and farms has not yet reached a peak, thereby increasing the likelihood of continued low prices; and

WHEREAS, rising costs of production have made it increasingly difficult for livestock producers to derive profit; and

WHEREAS, in 1959, as measured by weight, importations of beef and veal were three hundred nine per cent (309%), pork one hundred forty-eight per cent (148%) and lamb and mutton one thousand three hundred eighty-five per cent (1385%) of the average amount imported in the period 1951-1955; and

WHEREAS, in 1959 imports of livestock, meat and meat products, exclusive of wool, reached a record value of five hundred fifty-seven million dollars ($557,000,000.00); and

WHEREAS, the largest increases of imports have been in those types of meat and meat products for which domestic production is adequate for the needs of the nation; and

WHEREAS, the bulk of import increases are, therefore, not complementary to domestic production but in direct competition with native products; and

WHEREAS, imports of meat and meat products have reached such levels as to threaten serious injury to livestock producers; and

WHEREAS, livestock producers have not sought or received assistance from taxpayers in the form of price supports for their products;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the thirty-seventh legislative assembly of the State of Montana requests members of the Montana congressional delegation to

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urge John F. Kennedy, president of the United States, the senate committee on finance and the house committee on ways and means to direct the United States tariff commission to review and re-evaluate import quotas and import duties on meats and meat products to the end that friendly relations with other countries be maintained wtihout damaging the domestic livestock-producing industry of the United States.

BE IT FURTHER RESOLVED, that copies of this joint memorial be sent by the secretary of State of Montana to United States Senators Mike J. Mansfield and Lee Metcalf, to United States Representatives Arnold H. Olsen, and James F. Battin, to President John F. Kennedy, to the chairman of the senate committee on finance, to the chairman of the house committee on ways and means, and to the chairman of the tariff commission.

Approved March 3, 1961.

SENATE JOINT RESOLUTION NO. 4

A Joint Resolution of the Senate and House of Representatives of the Thirty-seventh Legislative Assembly of the State of Montana, Amending Joint Rules 11, 13 and 14.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE THIRTY-SEVENTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

That joint rule No. 11 be amended to read as follows:

"No. 11. ENROLLMENT OF BILLS — when a bill has passed both houses, the enrolling clerk of the house in which it originated shall cause to be made an original and four duplicate typewritten copies of the bill as the same was engrossed, together with its history, free from all corrections, erasures, interlineations, defects in orthography, the parenthetical notation '(matter deleted)' and all other clerical inaccuracies, provided, however, that the date of final enrollment may be stamped on the bill. In all bills containing amendments to existing statutes, the new parts shall be designated by underlining; the typewriting shall be done with a black record ribbon, pica or elite type, upon a plain linen finished paper, size 8½ inches wide and 13 inches long; paper to weigh sixteen pounds to the ream, with a margin of two inches at the top and one inch on each side, thirty lines of type to the page, but lines not numbered,

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and the bill shall be covered with white manuscript cover, upon which is written in capital letters the number and title. Three copies shall accompany the original through both houses and to the governer, who shall, if approved, sign the original and one copy. The original bill and two copies shall be filed with the secretary of state and the third copy shall be filed with the clerk of the supreme court. The fourth copy shall be retained by the chairman of the *bills* committee until the conclusion of the session, when it shall be filed with the secretary of state."

That joint rule No. 13 be amended to read as follows:

"No. 13. NOTICES OF SIGNING BILLS TO BE GIVEN BY PRESIDING OFFICER — Upon the presentation of an enrolled bill by the *bills* committee of either house to the presiding officer for his signature thereto, he shall arise in his place and give notice that he is about to sign the same, giving the title thereof, whereupon, if any member shall signify his desire so to do, he shall be permitted to examine the same, but no objections to the presiding officer signing the same shall be of any avail if the same conforms to the engrossed bill as it passed both houses."

That joint rule No. 14 be amended to read as follows:

"No. 14. BILLS FOR GOVERNOR'S APPROVAL — After the original bill and a copy shall have been signed in each house, they shall be presented by the *bills* committee in the house in which the bill originated to the governor for his approval, taking his receipt therefor, and the said committee shall forthwith report to their respective houses the day and hour of such presentation, which shall be entered upon the journal of such house.

"Every bill passed by the legislative assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members present agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present in that house it shall become a law notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by yeas and nays, to be entered on the journal. If any bill shall not be returned by the governor within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it,

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unless the legislative assembly shall by their adjournment prevent its return, in which case it shall not became a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislative assembly, unless approved by the governor within fifteen days after such adjournment. In case the governor shall fail to approve of any bill after the final adjournment of the legislative assembly it shall be filed, with his objections, in the office of the secretary of state. (Section 12, Article VII.)''

Approved February 23, 1961.

SENATE JOINT RESOLUTION NO. 9

A Joint Resolution of the Senate and the House of Representatives of the Thirty-seventh Legislative Assembly of the State of Montana, Requesting and Directing the State Board of Equalization of the State of Montana to Be Prepared With Proper Supplies and Wiring Panels for Its Electronic Business Machines to Submit Each Day to the Thirty-eighth Legislative Assembly of the State of Montana During the Period of Introduction of Bills of Said Assembly a Continuing Cumulative Master Sheet Stencil, Listing Upon Introduction, by Number, Each Senate and House Bill That Proposes Amendments to, and Repeals of, Existing Statutes and Session Laws, and Indicating in Numerical Order Opposite Each Such Listed Bill the Pertaining Section or Sections of the Revised Codes of Montana, 1947, and All Amendments and Repeals Thereto; Directing the Secretary of the Senate to Transmit a Copy of This Resolution to the Appointed Members of the Montana State Board of Equalization Prior to the Adjournment Sine Die of the Thirty-seventh Legislative Assembly.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE THIRTY-SEVENTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

WHEREAS, there will be a need by the members of the thirty-eighth legislative assembly of the State of Montana to have a continuing cumulative master sheet stencil each day during the period of introduction of bills of the assembly that will list by number each senate and house bill that proposes amendments or repeals and that will indicate in numerical order opposite each such listed bill the pertaining section or sections of the Revised Codes of Montana, 1947, and all amendments and repeals thereto; and

WHEREAS, the Montana state board of equalization has the

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necessary electronic business machines and could with minor cost provide the legislative assembly with such master sheet;

NOW, THEREFORE, BE IT RESOLVED by the senate and the house of representatives of the thirty-seventh legislative assembly of the State of Montana that the state board of equalization is hereby requested and directed to have the necessary supplies and wiring panels for its electronic business machines ready for use by the first day of the thirty-eighth legislative assembly and be prepared to supply each day during the period of introduction of bills the master stencil hereinabove referred to in the following approximate form set out as an example:

R.C.M.	Section 1947	Session Laws	Bill No.
25	236		HB 362K
A66	1003		HB 152
A66	1004		HB 152
R66	1008		HB 152
A66	1009		HB 152
PS67	1904	S6C250L61	SB 1
PS67	1904	S4C277L59	SB 1
69	3501	S3C285L59	SB 169
72	1444		HB 102
A72	1444		SB 3
72	1444		SB 7
R72	1444		SB 10
72	1444	C267L59	SB 110
84	49032		SB 193
84	49035		SB 193
89	1803		HB 376
92	104	C231L59	SB 178
94	7821		SB 198
PS94	7823	S3C27L59	SB 21
PS94	7825	S9C48L59	HB 430
PS94	7825	S9C48L59	SB 75
94	901	S1C126L49	SB 206
94	901	S1C17L57	SB 206
94	901	S1C18L59	SB 206

LEGEND

HB — House Bill
SB — Senate Bill
S — Section
C — Chapter
PS — Pocket Supplement
L — Laws
A — Amendment
R — Repeal
K — Killed

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BE IT FURTHER RESOLVED that the secretary of the senate of the thirty-seventh legislative assembly of the State of Montana transmit a copy of this resolution to the appointed members of the Montana state board of equalization after its passage and approval prior to the adjournment sine die of the thirty-seventh legislative assembly.

Approved March 14, 1961.

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CHANGES OF NAMES DECREED IN 1959 - 1960

Date of Judgment	Original Name	Name Decreed	Residence
June 4, 1959	Michael Earl Myers	Michael Earl Lamach	Billings
June 5, 1959	Henry Reiter	Henry K. Ryder	Laurel
Sept. 8, 1959	Bradley Mikel Anderson	Bradley Forman Anderson	Billings
March 18, 1959	Lucille Darlene Muecke	Lucille Darlene Ruff	Fairview
March 19, 1959	Michael Jerome Tully	Michael Tully Lake	Deer Lodge
April 6, 1959	John Riddock	Jay Riddock Overman	Augusta
April 7, 1959	Barbara Irene Wooten	Barbara Irene Miller	Lewis & Clark County
April 7, 1959	Vincent Mark Wooten	Vincent Mark Miller	Lewis & Clark County
April 14, 1959	Geraldine Davis	Betty Geraldine Davis	Thompson Falls
April 15, 1959	Michael McKone	Michael McKeon	Anaconda
May 28, 1959	James Walkslast	James McLane	Lame Deer
May 28, 1959	May Walkslast	May McLane	Lame Deer
May 28, 1959	Linda Walkslast	Linda McLane	Lame Deer
May 28, 1959	Jimmy Walkslast	Jimmie McLane	Lame Deer
May 29, 1959	Dale LeRoy Sage	Dale LeRoy Best	Missoula
June 1, 1959	Maurice Theadore Laundry	Maurice Theadore Landry	Havre
June 1, 1959	Justine Estelle Laundry	Justine Estelle Landry	Havre
June 1, 1959	Mary Ann Laundry	Mary Ann Landry	Havre
June 1, 1959	Maurice Robert Laundry	Maurice Robert Landry	Havre
June 1, 1959	Mark Edward Laundry	Mark Edward Landry	Havre
June 3, 1959	Robert Michael Carrico	Robert Michael Halvorson	Great Falls
June 9. 1959	Larry Dale Repine	Larry Dale Corth	Plentywood
July 7, 1959	Richard Allen Edwards	Richard Allen Denson	Hammond
July 31, 1959	Joseph Daniel Harris	Joseph Daniel Bahr	Ashland
July 29, 1959	David Milton Waters	David Wesley Waters	Red Lodge
Aug. 11, 1959	L. W. Rea	Lawrence Wayne Rea	Valley County
Aug. 20, 1959	Barbara M. Russell	Barbara M. Robison	Broadus
Aug. 26, 1959	Michael Joseph Smith	Michael Joseph Kennedy	Address not given, baby reported from Cascade County
Sept. 2, 1959	Mack Leeman Glovier	Mack Leeman Glover	Havre
Sept. 23, 1959	Sherry Lynn Wisniewski	Sherry Lynn Bennett	Great Falls
Oct. 5, 1959	Neil Edward Meade	Neil Edward Smith	Lewis & Clark County
Oct. 19, 1959	Kathleen Jeanne Walser	Lezlie Jeanne Walser	Alberton
Oct. 30, 1959	Clarence Russell Barngrover	Clarence Russell Coday	Havre
Oct. 30, 1959	Matilda Mary Coday (by judicial decree)	Matilda Mary Coday	Havre
Oct. 30, 1959	Gerald Lynn Coday (by judicial decree)	Gerald Lynn Coday	Havre
Nov. 16, 1959	John Duff Weisgerber	John Duff Ore Page	Lewis & Clark County
Nov. 16, 1959	Marcus Nicholas Golubin	Nick Duane Morrison	Great Falls
Nov. 17, 1959	George Robert Walsh	George Robert Counter	Butte
Nov. 19, 1959	John McLaughlin III	John James McLaughlin	Great Falls
Dec. 23, 1959	David Lee Robins	David Snyder Robins	Havre
Jan. 4, 1960	Sylvia E. Bickel	Sylvia E. Brent	Bozeman
Jan. 8. 1960	Giachimo Solari	Kim Solari	Butte
Jan. 8. 1960	Jack Gilbert Galler	Jon G. Jansen	Havre
Jan. 25, 1960	Warren Allen Bronson	Jack Allen Bronson	Havre
Feb. 15, 1960	Duane John Young	Duane John Mainwaring	Billings
Feb. 26, 1960	Swan Ralph Johnson	Swan Ralph Shipley	Butte
Feb. 29, 1960	First Methodist Episcopal Church of Bozeman, Mont.	The First Methodist Church of Bozeman, Montana	Bozeman
March 3, 1960	Lilly Christina Halverson	Lillian Christina Halverson	Missoula
March 11, 1960	Memorial Hospital Association of Western Mont.	Missoula Community Hospital	Missoula
March 28, 1960	Hazel Marie Novak	Charleen Marie Novak	Glasgow
April 6, 1960	Robert Warren Hill	Robert Warren Barker	Anaconda
April 20, 1960	Harry Lee	Harry Lee Hom	Ravalli County
April 20, 1960	Mary May Lee (children)	Mary May Hom	Ravalli County
April 20, 1960	Harry Lee	Harry Lee Hom	Ravalli County
April 20, 1960	Margaret Anne Lee	Margaret Anne Hom	Ravalli County
April 20, 1960	Nancy May Lee	Nancy May Hom	Ravalli County
April 20, 1960	Beverly Jean Lee	Beverly Jean Hom	Ravalli County
April 20, 1960	Linda Elizabeth Lee	Linda Elizabeth Hom	Ravalli County
April 24, 1960	Larry J. Rayas	Larry J. Notbohm	Helena
May 18, 1960	Raymond Frederick Millbrook	Raymond Frederick Farrell	Cut Bank
June 17, 1960	Virgal Holliday	Virge Holliday	Wilsall
June 27, 1960	Myron David Nuffer	Myron David Neuffer	Bozeman
June 27, 1960	Camille Cole Nuffer	Camille Cole Neuffer	Bozeman
June 27, 1960	John Franklin Nuffer	John Franklin Neuffer	Bozeman
June 27, 1960	Cynthia Hepburn Nuffer	Cynthia Hepburn Neuffer	Bozeman
June 27, 1960	Joan Marilyn Nuffer	Joan Marilyn Neuffer	Bozeman

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CHANGES OF NAMES DECREED IN 1959 - 1960

Date of Judgment	Original Name	Name Decreed	Residence
June 27, 1960	Garth Dewey Nuffer	Garth Dewey Neuffer	Bozeman
June 27, 1960	John Franklin Nuffer, Jr.	John Franklin Neufer, Jr.	Bozeman
June 27, 1960	Katherine Linda Nuffer	Katherine Linda Neuffer	Bozeman
June 27, 1960	Paul Cole Nuffer	Paul Cole Neuffer	Bozeman
June 27, 1960	Alice Elizabeth Nuffer	Alice Elizabeth Neuffer	Bozeman
June 27, 1960	Paul Michael Nuffer	Paul Michael Neuffer	Bozeman
June 27, 1960	Mark Charles Nuffer	Mark Charles Neuffer	Bozeman
June 27, 1960	Joan Elizabeth Nuffer	Joan Elizabeth Neuffer	Bozeman
June 27, 1960	Julie Debra Nuffer	Julie Debra Neuffer	Bozeman
June 27, 1960	Kurt David Nuffer	Kurt David Neuffer	Bozeman
June 29, 1960	Earnie Lee George Fawcett	Earnie Lee George Hoylman	Kalispell
June 30, 1960	Stanley Nicholas Teel	Nicholas Stanley Teel	Missoula
July 15, 1960	Fred Andrew Melton	Fred Andrew Knight	Billings
July 15, 1960	James Melton Moss	James Melton Knight	Billings
July 18, 1960	Ricky Joe White	Richard Joseph White	Bozeman
July 26, 1960	Donald Raymond Brandt	Donald Raymond Gunderson	Helena
July 29, 1960	Triple Indemnity Assn'n	Yellowstone National Accident Association	Billings
Aug. 9, 1960	Gary Joe Sacht	Gary Joe McNeil	Paradise
Aug. 10, 1960	Baby Boy Henry	Gregory Leigh Keller	Fishtail
Aug. 15, 1960	John Kruzic	John Patrick Krusick	Glasgow
Aug. 15, 1960	James C. Chmelik	James C. Melik	Gallatin County
Aug. 19, 1960	Loretta Louise Olson	Loretta Louise Currey	Billings
Aug. 19, 1960	Mary Lynn Olson	Mary Lynn Currey	Billings
Aug. 22, 1960	Billie Jon Wendland	William John Wendland	Havre
Sept. 1, 1960	Robert V. Thompson	Robert V. Charvat	Denton
Sept. 1, 1960	Gloria Corrine Thompson	Gloria Corrine Charvat	Denton
Sept. 2, 1960	Carl S. Martin	Carl Stanley Scott	Milltown
Sept. 2, 1960	Timothy C. Martin	Timothy Christian Scott	Milltown
Sept. 8, 1960	Rollo Guylo Henry	Henry Scott	Missoula
Sept. 9, 1960	Michael McIrnemey	Michael Maher	Butte
Sept. 14, 1960	Gary Michael Kofmehl	Gary Michael Brooks	St. Ignatius
Sept. 14, 1960	Martin Joseph Kofmehl	Martin Joseph Brooks	St. Ignatius
Sept. 23, 1960	Shirley Sue Pisasale	Shirley Sue Morigeau	Ravalli County
Sept. 23, 1960	Shawn Michele Pisasale	Shawn Michele Morigeau	Ravalli County
Oct. 13, 1960	Richard Lee Davidich	Richard Lee French	Helena
Oct. 18, 1960	Charles John Helea	Charles John Matule	Butte
Nov. 2, 1960	Michael Louis Golfis	Michael Louis Basham	Billings
Nov. 3, 1960	First Methodist Episcopal Church of Red Lodge, Montana	The Methodist Church of Red Lodge, Montana	Red Lodge
Nov. 14, 1960	Melva Mae Schultz	Melva Mae Miluck	Bozeman
Nov. 15, 1960	Baby Girl Helten	Brenda Lee Weiler	Fishtail
Nov. 15, 1960	John Charles Miller	John Charles Binek	Columbus
Nov. 29, 1960	Nancy Filppula	Nancy Ekola	Butte
Nov. 30, 1960	Ralph Lawrence Bloomfeld	Ralph B. Lawrence	Missoula
Dec. 2, 1960	Gottlieb Kraft	Bruce Gottlieb Kraft, to be know as Bruce G. Kraft	Billings
Dec. 6, 1960	Jean Marie Thein	Jean Marie Brandt	Columbus
Dec. 12, 1960	Daniel Paul Fisher	Daniel Paul Woods	Bozeman

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APPENDIX

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APPENDIX

The following constitutional amendments and referendum measure were proposed by the Thirty-sixth Legislative Assembly:

Chapter 191, Laws of 1959, relating to a Board of Regents of the University of Montana;

Chapter 193, Laws of 1959, relating to the term of office of certain county, township, precinct and municipal officers;

Chapter 194, Laws of 1959, to abolish the State Board of Prison Commissioners as a constitutional body;

Chapter 250, Laws of 1959, a $5,000,000 bond issue for Montana State Prison.

In STATE OF MONTANA, ex rel. NEIL C. LIVINGSTONE, JR., vs. FRANK MURRAY, as Secretary of State of the State of Montana, (..... Mont. ....., 354 Pac. (2)d 553), decided July 21, 1960, Chapter 191 was declared unconstitutional.

Since Chapters 193 and 194 also fell squarely within the decision above, all three constitutional amendments were withheld from the ballot.

Only the referendum, Chapter 250, appeared on the ballot, and was designated at the General Election of November 8, 1960, as Referendum No. 62. This measure failed of approval by a vote of 78,291 for the measure and 120,749 against it.

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